

# Orissa Wakf Rules, 1997

ODISHA

India

## Orissa Wakf Rules, 1997

### Rule ORISSA-WAKF-RULES-1997 of 1997

- Published on 26 July 1997
- Commenced on 26 July 1997
- [This is the version of this document from 26 July 1997.]
- [Note: The original publication document is not available and this content could not be verified.]

Orissa Wakf Rules, 1997Published vide Notification No. 1669-Wakf. 4/97-L, dated 26th July, 1997, Orissa Gazette Extraordinary No. 1292 dated 24.10.1997No. 1669-Wakf. 4/97-L. - In exercise of the powers conferred by Section 109 of the Wakf Act, 1995 (43 of 1995) the State Government do hereby make the following Rules, namely :

#### 1. Short title and commencement.

(1)These rules may be called the Orissa Wakf Rules, 1997(2)They shall come into force on the date of their publication in the Official Gazette.

#### 2. Definitions.

(1)In these rules, unless the context otherwise requires;(a)"Act" means the Wakf Act, 1995 (43 of 1995);(b)"Chairman" means the Chairman of the Board;(c)"Form" means a form appended to these rules;(d)"Report" means the report submitted by the Survey Commissioner under Section 4;(e)"Section" means a Section of the Act.(2)Words and expressions used in these rules but not defined herein, unless the context otherwise requires, shall have the same meaning as respectively assigned to them in the Act.

#### 3. Particulars of report of the Survey Commissioner.

(1)The report of the Survey Commissioner shall, in addition to the particulars specified in Clauses (a) to (e) of Sub-Section (3) of Section 4, contain the following particulars, namely:(a)The details of immovable property comprised in each Wakf showing the village or town where it is situated, the Municipal or survey number, area, assessment, description of the tenure on which held, the incidents attached thereto, and where the land is unsurveyed, the boundaries and such other particulars as the Commissioner deems necessary for its proper identification, and the estimated value thereof ;(b)description and the estimated value of each of the movable properties belonging to

the Wakf including investments and the like;(c)documents or other available records or materials showing the origin of the Wakf, if any;(d)obligations and encumbrances, if any, in respect of the properties mentioned in Clauses (a) and (b);(e)title deeds, pertaining to the Wakf property and the name of the person in its possession thereof; and(f)the manner in which the Wakf is administered at present, that is, whether under a scheme settled by a Court of Law or by a registered document or established custom or usage and the particulars thereof, so far as may be practicable.(2)The gross income of the properties comprised in each Wakf as referred to in Clause (c) of Sub-section (3) of Section 4 shall be arrived basing on the average income for the three previous years ascertained by adding together the following sources of incomes, if any, namely :(i)estimated annual income in terms of cash derivable from tenants, lessees and licensees;(ii)income derived from properties held in Khas, in cash or in kind;(iii)estimated collections on account of miscellaneous receipt such as Jalkar, Phalkars, Banker, Hatkar, Sale proceeds of timber, fuel, shrubs, grass, sand, earth, stone, income, from gardens, Plantations, bamboos, tanks, fisheries and Nazzars or presents in cash or in kind;(iv)annual proceeds or income from investment of money belonging to the Wakf or money derived from the Wakf properties; and(v)any other sources of income.

#### **4. Notice to furnish particulars.**

- The Survey Commissioner for the purpose of preparing his report under Sub-section (3) of Section 4 may issue notice in Form A to the Mutawalli or any person connected with the administration of Wakf requiring him to furnish detailed particulars relating to the Wakf property in Form B and every person on whom such a notice is served, shall be bound to furnish the required particulars to the Survey Commissioner.

#### **5. Register of Documents.**

- A register in Form C, containing the list of all documents received in course of the inquiry in respect of each Wakf and the findings of such inquiry, shall be maintained by the Survey Commissioner who shall submit a copy thereof alongwith his report to the State Government.

#### **6. Requisitions during inquiry.**

- For the purpose of inquiry under Sub-section (3) of Section 4, the Survey Commissioner may issue requisitions to Collectors, Registration Officers, officers of the Board of Revenue, the Orissa Museum or to any other Officer or Office as he deems fit for any information on the subject and the Officers of Offices concerned to whom such requisitions are issued shall be bound to comply the same within a period of thirty days from the date of receipt of such requisition.

#### **7. Appearance through Pleaders.**

- The provisions of the Code of Civil Procedure, 1908 shall apply so far as it relates to appearance through Pleader, filing of affidavits and return of documents before the Survey Commissioner in course of conducting the enquiry.

## **8. Service of Summons.**

- The summon for appearance as a witness or for the production of documents shall be in Form D.

## **9. Assistance of Police.**

- If the Survey Commissioner, in course of an inquiry under the Act apprehends a breach of peace, he may apply to the Superintendent of Police of the district for such reasonable assistance as may be necessary.

## **10. [ Chief Executive Officer. [Substituted vide O.G.E.No. 2183 dated 8.11.2007.]**

- The Chief Executive Officer of the Board shall be appointed in consultation with the Board by deputation of an Officer of the State Government not below the rank of Group-B who shall be a Muslim.]

## **11. Inspection of records in Public Office relating to Wakf.**

- The Chief Executive Officer or any other Officer of the Board duly authorised by the Chief Executive Officer under Section 29 shall inspect the documents relating to Wakf at all reasonable time and obtain copy thereof unless otherwise prohibited by Law or orders of Court.

## **12. Manner of inquiry in respect of ceased Wakf.**

(1)The Chief Executive Officer shall inspect any Wakf which has ceased to exist and determine as to whether such ceases took place before or after the commencement of this Act.(2)During the course of inquiry he shall inquire on the following matters, namely :(a)Yearly Statement of the Wakf;(b)Year of the ceaser of Wakf or any part thereof ;(c)The causes of such ceaser ;(d)Whether the causes of ceaser of any Wakf or a part thereof is due to the negligence of the Mutawalli, Marfatdar and Managing Committee and whether the ceaser of Wakf property or any part thereof has taken place with the ill intention of the Mutawalli, Marfatdar or managing Committee.(3)For conducting such enquiry, the Chief Executive shall issue notice to the concerned Mutawalli, Marfatdar or Managing Committee, Form 'E' and 'F'.(4)The Chief Executive Officer shall submit its report basing on the inquiry to the Board for taking action to recover the Wakf property and to remove the concerned Mutawalli, Marfatdar or the Managing Committee, as the case may be.

## **13. Encroachment on Wakf property.**

(1)In case of any encroachment of any land, building, space or other property of a Wakf which has been registered as such, the Chief Executive Officer shall cause to serve a notice on the encroacher calling him to show cause in the Form 'G'.(2)The Chief Executive Officer shall, after examining the relevant records and after giving an opportunity of being heard to the encroacher concerned and to

any other person whose evidence may be relevant for the purpose of enquiry, conduct an enquiry about the actual possession of the property including the legality of such possession as per the provisions of the Act.(3)On the results of the enquiry if it is found that there is an encroachment of the Wakf property, the Chief Executive Officer will follow the procedure laid down under the provisions of Section 55 of the Act.(4)A copy of the enquiry report shall be furnished to the Board in each case.

#### **14. Preparation of Budget of wakf under direct management of the Board.**

(1)The Chief Executive Officer shall prepare a budget for each of the Wakf under the direct management of the Board for each financial year before the end of December every year in Form H and shall submit it to the Board, for approval. The Budget Estimate of receipt and expenditure and assets and liabilities shall be prepared in Forms 'T' and 'J', respectively.(2)The account of a Wakf having the annual income of Rs. 10,000 (Ten thousand) or more shall be audited every year by the Auditor of the Board. The audit report of the Board of each Wakf, so audited shall be placed before the Board at the time of approval of the Budget of the concerned Wakf.

#### **15. Confirmation on sale of the wakf property by the Board.**

(1)Sale of any immovable property of a Wakf made with the prior sanction of the Board under Sub-Section (1) of Section 51 shall be confirmed by the board within three months from the date of such sale.(2)Every approval given by the Board under Sub-section (3) of Section 51 shall be published in the notice board of the Tahasildar and Sub-registrar under whose jurisdiction the property situates and the copy of the same shall be exhibited in a conspicuous place on the property/properties itself.

#### **16. Manner of service of notice.**

- The Board on receipt of any information regarding transfer of Wakf property made in contravention of the provision of Section 51 shall have the power to enquire through the Chief Executive Officer in the following manner :-(a)Notice in Form 'K' to be served on the Mutawalli, Marfatdar or Managing Committee concerned by personal service or by registered post with A.D. inviting show cause for such illegal transfer of the Wakf property alongwith the description of the property;(b)In case no reply to the show cause notice is received within thirty days, the Board shall take the decision in the matter and send a requisition to the Collector of the District in those jurisdiction such property lies requiring recovery and delivery of possession of the property to the Board.(c)If the reply to the show cause is received within the prescribed period the Board shall conduct an enquiry through the Chief Executive Officer and take a decision in the matter.

#### **17. Procedure of inquiry for removal of Mutawalli.**

(1)The Board for taking action under Sub-section (1) of Section 64 shall serve notice for inquiry to-(a)the person, if any, required to be examined in the inquiry; and(b)the Mutawalli of the

wakf. Note. - A copy of the notice to the Mutawalli shall be served through a registered post failing which by personal service to satisfy the requirements of natural justice. (2) A copy of the notice shall be affixed on the notice board of the office of the Board and another copy in any conspicuous place in the locality in which the wakf property is situated. Such affixture shall be sufficient intimation to persons having interest in the wakf property. (3) The inquiry shall be conducted by the Chief Executive Officer of the Board. (4) All persons who appear before the Chief Executive Officer in response to the notice issued under Sub-rule (1) shall, within the time fixed in the notice or within such further time as may be granted, file written statement containing their objections or suggestions and may give oral evidence : Provided that the Chief Executive Officer may permit any person, who has not filed a written statement to make representations or give oral evidence at the time of inquiry. (5) Any party to the Proceedings shall have a right to appear in person or by pleader to give oral and or documentary evidence and to apply for summoning witnesses or documents. The Chief Executive Officer shall record the oral evidence of witnesses and the parties to the inquiring in his own handwriting and record his findings and furnish his report to the Board for taking decision under Sub-section (1) of Section 64. (6) A copy of decision of the Board shall be communicated to the Mutawali concerned. (7) A copy of the order relating to the enquiry shall be communicated and published in the manner specified in sub-rule (2).

## **18. Supersession of Committee of Management of Wakf.**

- Every order made under Sub-section (2) of Section 67 shall be published in the notice of the Board, office of the Tahasildar and the Sub-Registrar where the property of the Wakf exist and copy thereof shall be sent to the Mutawalli, Committee of the Wakf and shall be published in the Orissa Gazette.

## **19. Preparation of Scheme.**

- The Scheme so framed by the Board under Sub-section (1) of Section 69 shall (a) be economically viable; (b) not contravene the purpose of the Wakf for which it has been created; and (c) be accepted to the local Muslim inhabitants.

## **20. Publication of order passed under Sub-section (2) Section 69.**

- The order made under Sub-section (2) of Section 69 shall be published in the notice Board of the Wakf Board and a copy thereof shall be affixed in the conspicuous place of the concerned Wakf. A copy of the said order shall be sent to the Collector of the concerned District and sub-Collector of the concerned Subdivision for wide publication.

## **21. Annual contribution payable to the Board.**

- Every Mutawalli shall annually pay at the rate of seven per cent of the net annual income to the Board in each financial year commencing from the 1st April to the 31st March.

## **22. Maintenance of the Wakf Fund.**

- All money in the Wakf Fund shall be deposited in the account maintained by the Board for the purpose in any Commercial Bank and all such deposits shall be made in the name of the Board. No money shall be withdrawn from the Bank unless it is required for payment to be made under Sub-section (4) of Section 77.

## **23. Forms and time of Budget.**

- The Board shall submit to the State Government not later than the 15th December of every calendar year, a budget for the next financial year in Form H, I and J and showing its estimated receipts and expenditure.

## **24. Prepare of Budget by Mutawalli.**

- Every Mutawalli or as the case may be, the Committee shall, before the end of December every year, submit a budget for the next financial year in form H, I, and J.

## **25. Inspection and issue of records.**

- The provisions of the Orissa Record Manual, 1964 shall be applicable for inspection and issue of copies of the proceedings or record in the custody of the Board.

## **26. Registers to be maintained by the Board.**

(1)The following registers shall be maintained by the Board for the purpose of administration of Wakf Fund, namely : (a)A cash book showing the daily receipts and expenditure; (b)A demand, collection and balance register to watch the realisation of contributions from Wakfs; (c)A deposit register showing the daily deposits made in the accounts with the Banks in respect of the fund; (d)A register showing the receipts and disbursements during the previous years; (e)A register showing all payments made by the Board and the recoveries made and to be made from the Wakfs from time to time under Section 38; (f)A register showing the recovery to be made from a Wakf under Sub-section (2) of Section 46; (g)A register showing all recoveries made and to be made from time to time under Section 53; (h)A miscellaneous receipt register showing the particulars of receipt books and counterfoils issued from time to time; (i)A posting register to compile monthly accounts; (j)A stamp register; (k)A contingent register; (l)An establishment audit register; and (m)Stock books showing receipts, issue and balance relating to; (i)Stationary and printed forms, (ii)Furniture, and (iii)Cycles, typewriters, tools and plant and other stores. (2)All transactions shall be brought into account and all moneys received shall be paid in full without delay to a Bank, with which the Board has transaction, to be credited to the appropriate account of the Board. (3)The appropriation of receipts to expenditure shall be avoided. (4)The Cashier-in-charge shall grant receipts for all moneys received by the Board. A counterfoil receipt bearing printed machine number shall be maintained for the purpose. (5)Recoveries of overpayment relating to the current year shall be shown as abatement of

charges of the accounts concerned. If the over-payments relates to the previous year, the accounts of which have been finally closed, the recoveries shall be taken as direct receipts to the accounts concerned.(6)Money indisputably payable shall never be left unpaid and money paid shall, under no circumstances, be kept out of the accounts more than a day if it is absolutely necessary.(7)Any person having a claim against the Board shall present his voucher duly verified and stamped. All vouchers shall be filled in and signed in ink. The amount shall be written in figures as well as in words. All corrections and alterations in the vouchers shall be attested by the dated initials of the person signing the receipt.(8)Receipts for all sources exceeding Rs. 500 (Rupees five hundred) either by cash or cheque shall be stamped. The correct head of classification according to the Budget shall be recorded on each voucher by the Drawing Officer.(9)In the preparation and drawal of pay bills, travelling allowance bills, contingent bills and pension the rules contained in the Orissa Accounts Code, the Treasury Code, the Orissa Travelling Allowance Rules and the Orissa Pension Rules as applicable to the Government employees of the State of Orissa, shall apply.(10)Postage stamps shall be purchased and issued for use in the office of the Board after they are perforated by a perforator with the impression "O.W.B." the charges for postage stamps shall be drawn on separate contingent bills.(11)Expenditure shall be classified under the following major and minor heads :

Major	Minor
(a) Salary of officer	(i) Allowance or fees to the Chief Executive Officer & Members of the Board or of Committee.
(b) Pay of establishment	(i) Pay of establishment in the Board's Office.
	(ii) Pension to the employees of the establishment.
(c) Allowances	(i) Travelling Allowances
	(ii) Other Allowances
(d) Contingencies	(i) Rents, rates and taxes
	(ii) Postage & telegrams
	(iii) Stationary
	(iv) Books & periodicals
	(v) Electricity & lighting charges
	(vi) Telephone charges
	(vii) Printing charges
	(viii) Furniture
	(ix) Miscellaneous
(e) Law charges	(i) Lawyers fees
	(ii) Stamp charges
	(iii) Other charges
(f) Loans and Advances	(i) Repayment of loans
	(ii) Interest on loans

(iii) Grant of loans

(12) Re-appropriation or transfer of funds from the allotment under one minor head of expenditure to another under one the same major head may be made by the Chief Executive Officer. No re-appropriation from one major head to another shall be made without the sanction of the Board.

## 27. Contents of the report to be laid before the House.

- The annual report, besides other things of the Board shall contain the following matters, namely : (a) Annual Income and Expenditure of the Board; (b) Income derived from the contribution; (c) Government Grants; (d) Details of Financial Assistance provided to Wakf Institutions; (e) Taxes paid to Government and the local bodies; (f) Income from the Investment; (g) Number of Wakf properties in the State District wise.

## 28. Repeal and Savings.

(1) The Orissa Muslim Wakfs (Survey) Rules, 1959 and the Orissa Muslim Wakfs Rules, 1961 are hereby repealed. (2) Notwithstanding such repeal, any order made/issued, appointment made, action taken or things done under any of the provisions of the rules so repealed, shall be deemed to have been issued, made, taken or done under the provisions of there rules.

## 29. Removal of doubts.

- If any doubt or difficulty arises in giving effect to the provisions of these rules, the Government may, from time to time, with a view to ensuring proper functioning of the Board and proper implementation of the provisions of these rules issue such administrative orders, directions and instructions as they deem fit, not inconsistent with the provisions of the Act. Form A [See Rule 4] Present

Shri.....ToName.....Address.....Whereas you are the Mutawalli/Person connected with the administration of the Wakf noted below : This is to require you to furnish the detailed particulars relating to the said Wakf in Form 'B' appended to the Orissa Wakfs Rules, 1997 by the..... without fail. Name of the wakf Survey Commissioner of Wakfs Form B [See Rule 4] To The Survey Commissioner of Wakfs, Orissa. In pursuance of your notice, dated..... under Rule 4 of the Orissa Wakfs Rules, 1997

I..... son of..... of village..... PO..... District..... | being the Mutawalli or administrator of person interested in | the Wakf furnish below the detailed particulars against each of the headings and sub-headings in this form.

## 1. Description of the Wakf properties -

(a) Name of the Collectorate (b) Touzi number and name of Thana (c) Name of village and J.L. number (d) Settlement Khatian No. (e) Area of land Under Khas possession Leased out to tenants



## 2. Gross annual income from such properties

## 3. Revenue cess, rents and taxes payable-

(a) Government revenue (b) Zamindar's rent (c) Cess for public work, etc. (d) Local tax, etc.

## 4. Collection and other expenses

## 5. List of expenditure directed by the Wakf for-

(a) Salary of the Mutawalli and allowance to members of family (b) Expenses for religious purposes (c) Expenses for charitable purposes (d) Expenses for other purposes

## 6. Classes of Wakf

## 7. Name of wakf (donor)

## 8. Name of Mutawalli with present address

## 9. Year and date of, the Wakf deed

## 10. List of papers submitted

Verification I solemnly declare that the above statements are true to my knowledge and belief and that I have concealed nothing. Signature.....Address.....N.B.: A copy of the Wakf deed should be forwarded along with this where no deed was drawn up at the time of the Wakf or the deed cannot be traced due to reasons beyond the control of the..... Mutawalli or any other person sending this form, a brief history and full particulars of the origin, nature and object of the Wakf and of all other necessary facts to the best of his knowledge should be written. Form C [See Rule 5] Register of documents filed before the Survey Commissioner of Wakfs, Orissa

Date	Description of documents	Name of person or person filing	Date of return	Signature of person taking return
(1)	(2)	(3)	(4)	(5)

Form D [See Rule 8] Notice under Rule 8 of the Orissa Muslim Wakfs Rules, 1997 before the Survey Commissioner of Wakfs, Orissa Present

Shri.....To Name.....Address.....Whereas in connection with the enquiry relating to preparation of the report under the Wakfs Act, 1995 you are likely to give material evidence/you have relevant documents as specified below in your custody. This is to require you to appear before me at..... to give evidence/produce or cause production of the documents specified below : at on the 20 without fail. If you fail to comply with the

requirements of this notice, action shall be taken against you under the Code of Civil Procedure, 1908. Here specify the documents Survey Commissioner of Wakfs, Orissa Form E [See Rule 12] Present Shri..... To Name

..... Address..... Whereas you are the

Mutawalli/Person connected with the administration of the Wakf noted below

:(a) District (b) Tahasil (c) Thana (d) P.S. (e) Khata No. (f) Plot/Plots (g) Area This is to require you to furnish the detail particulars relating to the said Wakf in Form F appended herewith by the..... without fail. Chief Executive Officer Form F [See Rule 12] To The Chief Executive Officer, In pursuance of your notice under Rule 12 of the Orissa Wakf Rule, 1997, I....., S/o..... of Village..... Post..... Dist..... being the Mutawalli or administrator of the Wakf furnish below the detail particulars against each of the heading and sub-heading in the Form. Description of Wakf Property : (a) Name of the District (b) Name of the Tahasil (c) Village (d) Khata No. (e) Plot No. (f) Area (g) Date of transfer/Mortgage, Cessation of Wakf Encroachment (h) Detail reason of the

above Date..... Signature..... Address..... Form G [See Rule

13] To Shri..... S/o..... Address..... Whereas it appears that you are in unauthorised occupation of property as specified in the Schedule below which is the Wakf property. You are hereby given notice to appear before the undersigned personally or through authorised agent on..... at..... and show cause why you should not be proceeded against under Sections 4 and 6 of the Orissa Prevention of Land Encroachment Act, 1972 (Orissa Act 6 of 1972).

## Schedule

Name of the Village, Police-station or Thana and District	Plot No.	Description	Entire extent of the Extent Plot as recorded in O.R.R.	unauthorisedly occupied	Nature of occupation
(1)	(2)	(3)	(4)	(5)	(6)

Date..... Chief Executive Officer Form H [See Rules 14, 23 and 24] Budget Estimate of Income and Expenditure for the year

Accounts for	Budget estimate for	Revised estimate for	Heads of income	Income	Expenditure	Fasli			
Budget estimate for	Budget estimate for	Head of expenditure	Revised estimate for	Budget estimate for	Accounts for				
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Rs.	Rs.	Rs.		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1.	Contribution from Wakfs Section 46(1)			1.	Deficit from previous year				
2.	Other Income			2.	(i) Fees or allowances to Chairman and Members of Board or Committee				
	(a) Interest or investment and advances				(ii) Pay of Chief Executive Officer				

(b) Fees for supply of documents and other petty items.

(iii) Pay of Establishments

(iv) Travelling and other allowances

(v) Contingencies

(vi) Law Charges (after deduction recovered)

(vii) Audit Charges

(viii) Interest on loan

Deficit at the end of the year

Total.....

Total.....

Form I[See Rules 14, 23 and 24]Budget Estimate of Receipts and Payment for

Accounts for	Budget estimate for	Revised estimate for	Receipt	Budget estimate for	Budget estimate for	Head of payment	Revised estimate for	Budget estimate for	Accounts for
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.

Cash balance from previous year ...

Expenditure

(i) Income

(i) Payment of Loans (from surplus of income over expenditure or loan; and the like when there, is no surplus).

(ii) Loans

(ii) Cash balance (including advances of pay, travelling allowances and lawyers fee) at the end of the year.

Total

Total

Form J[See Rules 14, 23 and 24]Budget Estimate for assets and liabilities on

Accounts for	Budget estimate for	Revised estimate for	Assets	Liabilities	Revised estimate for	Budget estimate for	Accounts for
Heads of assets	Budget estimate for	Budget estimate for	Head of liabilities				
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8) (9) (10)
	Rs.	Rs.		Rs.	Rs.		Rs. Rs. Rs.

Cash balance

Loans

Deficit at the end of the year

Total

Total

Includes advances of the Pay, travelling allowances and lawyers fees  
Form K[See Rule 16]Whereas it has come to the notice of the Orissa Board of Wakf that in contravention of the Provisions of Section 51 of the Wakf Act, 1995, you have illegally transferred the under-mentioned Wakf property. You are,

therefore, called upon to show cause for such illegal transfer within a period of one month from the date of receipt of the notice. In case no show-cause is received within the stipulated period, the Board shall be duty bound to take such action as deem fit.

Description of Wakf Property

(a)	Name of the Wakf
(b)	District
(c)	Tahasil
(d)	Thana
(e)	House
(f)	Khata
(g)	Plot
(h)	Area