

# Uttar Pradesh Muslim Waqfs Act, 1960

UTTAR PRADESH

India

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### Act 16 of 1960

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Uttar Pradesh Muslim Waqfs Act, 1960[U. P. Act No. 16 of 1960]Last Updated 20th November, 2019[Dated 24.02.1960]An act to provide for better governance, administration and supervision of certain classes of waqfs in Uttar Pradesh. Whereas it is expedient to provide for better governance, administration and supervision of certain classes of waqfs in Uttar Pradesh. It is hereby enacted in the Eleventh Year of the Republic of India as follows :-Preliminary

#### 1. Short title, extent and commencement.

(1) This Act may be called the Uttar Pradesh Muslim Waqfs Act, 1960. (2) It shall extend to the whole of Uttar Pradesh. (3) It shall come into force at once.

#### 2. Application of the Act.

(1) Save as herein otherwise specifically stated, this Act shall apply to all waqfs, whether created before or after the commencement of this Act, any part of the property comprised in which is situate in Uttar Pradesh, and to all the waqfs which at the time of the coming into force of this Act were under the superintendence of the Sunni Central Board or the Shia Central Board constituted under U. P. Muslim Waqfs Act, 1936. (2) [ This Act shall also apply to the endowments hitherto governed by the Husainabad Endowment Act, 1878, the trusts known as King's side and the Queen's side of Shahnajaf Trust, the Waqfs known as Waqf Abbu Saheb, Rauza Kazman Waqf and Waqf Wazir Begum, Lucknow and any other endowment, trust or waqf hitherto administered by the Trustees appointed under the said Husainabad Endowment Act; and all these endowments, trusts and waqfs shall be deemed to be waqfs for the purpose of this Act :Provided that the State Government shall have the power to make, by notification in the official Gazette, such adaptations, whether by way of modification, addition or omission, not affecting the substance of the provisions of this Act, as it may deem fit, in its application to the aforesaid endowments, trusts and waqfs.] [Substituted by section 2 of U. P. Act No. XXV of 1963 and be deemed to have come into force on September 3, 1960.] (3) [\* \* \* ] [Omitted by section 2 of U.P. Act No. 28 of 1971.]

### 3. Definitions.

- In this Act, unless there is anything repugnant in the subject or Context-(1)"beneficiary" means a person or object for whose benefit a waqf is created and includes religious, pious or charitable object and any other object of public utility established for the benefit of the Muslim Community or any sect thereof;(2)"Board" means the Sunni Central Board or the the Shia Central Board constituted under this Act ;(3)"Commissioner" means a Commissioner of waqfs appointed by the State Government, under section 4 ;(4)"family" includes--(i)parents and grand-parents ;(ii)wife or husband ; and(iii)persons related through any ancestor, male or female;(5)[ "mutawalli" means any person appointed either verbally or under any deed or instrument by which a Waqf, has been created or by a competent authority to be the mutawalli of a waqf, and includes any naib-mutawalli, khadim, mujavir, sajjadanashin, amin or other person appointed by a mutawalli to perform the duties of a mutawalli and save as otherwise provided in this Act, any person or Committee for the time being managing or administering any waqf property as such ;] [Substituted by section 3(a) of U.P. Act No. 28 of 1971.](6)"net income" means the total income less revenue, cess, rates, taxes or surcharge payable to the Government or to any local authority;(7)"property" includes Government securities and bonds, shares in firms and companies, stocks, debentures and other securities and instruments, and cash and other commodities;(8)"prescribed" means prescribed by bye-laws or rules made under this Act;(9)"sub-committee" means a sub-committee appointed for any local area under section 27 ;(10)"Tribunal" means a Tribunal constituted under section 70 ;(11)"Waqf" means the permanent dedication or grant of any property for any purpose recognized by the Muslim Law or usage as religious, pious or charitable, and includes wqfs-alal-aujad [(to the extent to which the property is dedicated or granted for any such purpose as aforesaid)] [Inserted by section 3(b) of U. P. Act No.28 of 1971.] and waqifs by user, and "waqif" means the person who makes such dedication or grant;(12)"Waqf property" includes offerings made at a shrine or tomb or imambara; and(13)"State Government" means the Government of Uttar Pradesh.

## Chapter I

### Survey of Waqfs

#### 4. Appointment of Commissioner of Waqfs and Additional or Assistant Commissioners of Waqfs.

- The State Government may, from time to time, by notification in the official Gazette, appoint a Commissioner of Waqfs and as many Additional Commissioners of Waqfs or Assistant Commissioners of Waqfs as may be necessary for the purpose of making a survey of all waqf properties in the State or in specified areas thereof whether the waqfs be subject to this Act or not.

#### 5.

An Additional Commissioner of Waqfs or an Assistant Commissioner of Waqfs shall exercise all the powers and perform all the duties which under this Act have been conferred or enjoined upon the

Commissioner.

## 6. Survey of waqfs.

(1)The Commissioner shall apportion the work of survey of waqfs between himself and the Additional and Assistant Commissioners in such manner as he may think proper, and shall generally supervise and control their work.(2)The Commissioner of Waqfs, shall, after making such inquiries as he may consider necessary, ascertain and determine-(a)the number of all waqfs in the area showing the Shia waqfs and Sunni waqfs separately;(b)the nature and objects of each waqf;(c)the gross income of the property comprised in each waqf;(d)the amount of revenue, cesses, rates, taxes and surcharge payable to the Government or the local authority in respect of each waqf property;(e)expenses incurred in the realization of the income and the pay or other remuneration of the mutawalli of each waqf;(f)[\* \* \* ] [Omitted by Section 4 of U. P. Act No.28 of 1971.](g)such other particulars relating to each waqf as may be prescribed:Provided that where there is a dispute as to whether a particular waqf is a Shia waqf or Sunni waqf and there are clear indications in the recitals of the deed of waqf as to the sect to which it pertains, such dispute shall be decided on the basis of such recitals.(3)The Commissioner shall while making any inquiry, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely-(a)summoning and examining any witness;(b)requiring the discovery and production of any document;(c)requisitioning any public record from any court or office;(d)issuing commissions for the examination of accounts and witnesses ;(e)making any local inspection or local investigation; and(f)any other matter which may be prescribed by the State Government.(4)The Commissioner, the Additional Commissioner of Waqfs or Assistant Commissioner of Waqfs shall submit his report of enquiry, containing the particulars mentioned in sub-section (2) above, to each of the Boards and the State Government and the State Government shall, as soon as possible, notify in the official Gazette the waqfs relating to particular sect, to which, according to such report, the provisions of this Act apply.

## 7. Recovery of costs of survey.

(1)The total cost of making a survey under this Chapter shall, where the survey is State-wide, be borne by all the mutawallis in proportion to the income of the property of the waqfs in the State, and where the survey is confined to a particular area, by the mutawallis of the waqfs situate in that area in proportion to the income of the property of the waqfs in that area.(2)Notwithstanding anything contained in the deed or instrument creating any waqf, any mutawalli may pay from the income of the waqf property any sum due from him under sub-section (1).(3)Any sum due from a mutawalli under sub-section (1) may, on a certificate issued by the State Government, be recovered in the manner provided in section 83.

## 8.

(1)If any dispute arises whether a particular property is waqf property or not or whether a waqf is a Shia waqf or Sunni waqf, the Board concerned or the mutawalli of the waqf or any person interested therein, may, in accordance with the provisions of this Act, refer the dispute for adjudication to the

Tribunal :Provided that no such dispute shall be entertained by a Tribunal after the expiry of one year from the date of the publication of the list of waqfs under sub-section (4) of section 6.(2)The Commissioner, Additional Commissioner of Waqfs and Assistant Commissioner of Waqfs shall not be made a party to any proceeding under sub-section 1).

## 9.

(1)The provisions of this chapter shall not apply to the proceedings of any survey of waqf properties started before the commencement of this Act, and such survey shall be completed in accordance with the provisions of the U. P. Muslim Waqfs Act, 1936 (U.P. Act XIII of 1936).(2)Nothing in this chapter shall affect the finality of the decisions of the Chief State Commissioner of Waqfs or of any State Commissioner of Waqfs or Commissioner of Waqfs in cases in which prior to the commencement of this Act the report of such Commissioner has become final.

## Chapter II

### Establishment of Boards and their functions

#### 10. Establishment of Central Boards.

(1)There shall be established in Uttar Pradesh two separate Boards to be called the "Sunni Central Board" and the "Shia Central Board" of Waqfs Each Board shall be a body corporate and shall have perpetual succession and a common seal and shall by its said name sue or be sued :Provided that the Boards which were constituted under the U. P. Muslim Waqfs Act, 1936 (U.P. act XIII of 1936), and were functioning at the time of the commencement of this Act shall be deemed to have been constituted under the provisions of this Act and shall continue to function till the expiry of their term under the U. P. Muslim Waqfs Act, 1936 (U.P. act XIII of 1936).(2)Anything required or permitted by this Act to be done by the Board shall in case of Sunni waqfs be done by the Sunni Central Board and in case of Shia waqfs by the Shia Central Board:Provided that the control and superintendence of the Shia Board over the [waqfs, endowments, and trusts referred to in sub-section (2) of section 2] [Substituted by section 4 of U. P. Act no. XXV of 1963 and be deemed to have Come into effect on September 3. 1960.] shall be subject to directions as may be Issued by the State Government from time to time.

#### 11. Constitution of Sunni Central Board.

- [(1)] [Section 11 re-numbered as section 11(i) by section 2(i) of U. P. Act No. 3 of 1970.] The Sunni Central Board shall consist of the following Sunni Muslims, elected [\* \* \*] [Omitted by section 2 (a) of U. P. Act no. 11 of 1974.] or [co-opted or nominated as hereinafter indicated] [Substituted by section 2 (1) (i) of U. P. Act no. 3 of 1970.] :-(i)[ six members, of whom at least one shall be a member of the State Legislative Council, to be elected from amongst themselves by Sunni members of the State Legislature ;] [Substituted by section 2 (a) of U. P. Act no. 18 of 1972.](ii)[ two Sunni Advocates enrolled with the Uttar Pradesh State Bar Council, to be elected by Sunni members of the High Court Bar Association, Allahabad and Avadh Bar Association, Lucknow ;] [Substituted by

section 2 (b) of U. P. Act no. 11 of 1974.](iii)[ one member from amongst the persons who in the opinion of the State Government are recognized scholars of Islamic theology, to be nominated by the State Government;] [Substitute by section 2 of U.P. Act No. 23 of 1995](iv)[ two members, one of whom shall have knowledge or practical experience in respect of finance and the other in respect of administration, to be nominated by the State Government;] [Clauses IV and V substituted by section 2 (1) (ii) of U. P. Act no. 3 of 1970.](v)one member to be co-opted by the above [eleven] [Substituted by section 2 (c) of U. P. Act no. 18 of 1972.] members from amongst mutawallis of waqfs to which this Act applies having each an annual income of not less than [rupees three thousand] [Substituted by section 5 of U. P. Act no. 28 of 1971.];(vi)the President, if he is not one of the above [twelve] [Substituted by section 2 (d) of U. P. Act no. 18 of 1972.] members.(2)[ The election and co-option under sub-section (1) shall be held and made within such time and in such manner as the State Government may by general or special order direct, and any question or dispute relating to any such election or co-option, shall be referred to, the State Government whose decision shall be final.] [Substituted by section 2(c) of U.P. Act no.11 of 1974.]

## **12. [ Constitution of Shia Central Board. [Section 12 re-numbered as sub-section (i) thereof by s.3 (l) of U.P. Act no. 3 of 1970.]**

(1)[ The Shia Central Board shall consist of the following Shia Muslims elected [\* \* \* ] [Omitted by B. 3 (a) of U. P. Act no. 11 of 1974.] or co-opted [or nominated or ex officio] [Inserted by section 3 (i) (a) of U. P. Act no. 18 of 1972.] as hereinafter indicated : (i)[ all Shia members of the State Legislature ;] [Substituted by section 3 (i) (b) of U. P. Act no. 18 of 1972.](ii)[ one member to be nominated by the State Government;] [Substituted by section 3 (1) (i) of U. P. Act no. 3 of 1970.](iii)one member to be elected by the Board of trustees of the Shia College, Lucknow from amongst its members;(iv)[ three members, one of whom shall be a mutawalli of a waqf to which this Act applies having an annual income of not less than [rupees three thousand] [Section 3(1)(ii) of U. P. Act no. 3 of 1970.], one shall have knowledge or practical experience in respect of finance and administration, and the third shall be an Alim, to be co-opted by [the members referred to in the foregoing clauses] [Substituted by section 3 (i) (c) of U. P. Act no. 18 of 1972.];(v)the President, if he is not one of [the members referred to in the foregoing clauses ;] [Substituted by section 3 (b) of U. P. Act no. 11 of 1974.](2)[ The election and co-option under sub-section (1) shall be held and made within such time and in such manner as the State Government may, by general or special order direct, and any question or dispute relating to any such election or co-option shall be referred to the State Government whose decision shall be final.] [Inserted by section 3 (c) of U. P. Act no. 11 of 1974.]

## **13.**

- [Nomination in certain cases. - [If any of the bodies referred to in clause (iii) of sub-section (1) of section 12] [Substituted by 3 (1) (ii) of U. P. Act no. 3 of 1970.] [does not exist or is unable or fails to return the requisite number of members] [Substituted by section 7 of U.P. Act no. 28 of 1971.] [within such time as may be specified by the State Government in that behalf] [Substituted by section 4 of U. P. Act no. 11 of 1974.] the deficiency shall be made good by nomination of a [Shia Muslim] [Section 3(b) of U. P. Act No. 23 of 1995.] by the State Government.]

### **13A. [Notification of constitution of the Board. [Insertion by section 4 of U. P. Act No. 23 of 1995.]**

- As soon as may be after the election, nomination and co-option of the members and the election of the President has been completed, the State Government shall, by notification in the Official Gazette notify that the Board has been duly.

### **13B. Fresh elections in certain circumstances.**

- Whereas a result of any order of any court or for any other reason the State Government is unable to issue a notification of due constitution of the Board and more than five years have elapsed from the date of election of the President, the constitution of the Board shall not be notified and the election, nomination and co-option of the members and the President shall be made afresh to constitute an new Board.]

### **14. Term of the Board.**

- [(1)] [Section 14 renumbered as Sub. section (1) thereof by section 5 of U. P. Act no. 3 of 1970.] Subject to the provisions of section 23 the term of the members of the Board shall be five years [from the date of the notification of its constitution; ] [Substituted by section 5 (a) (i) of U. P. Act no. 3 of 1970.] Provided that the State Government may, by notification in the official Gazette, extend the said period by a further period not exceeding one year. [Provided further that except as provided in sub-section (2), the outgoing members of the Board (including its President) shall, notwithstanding the expiration of their term, continue to hold office as members and President respectively until the due constitution of the new Board is notified by the State Government in the Official Gazette.] [Inserted and be deemed to have been inserted w. e. f. December 5. 1969 by section 5 (a) (ii) of U. P. Act no. 3 of 1970.] (2) [ Whereas a result of any interim order of any Court, or for any other reason, the State Government is unable to issue a notification of due constitution of the new Board or after such notification is issued the new Board is unable to function, the State Government may, in the case of any interim order of a Court, for the duration of such order, and in any other case, for a period not exceeding [two years or upto the constitution of the Board, whichever is earlier] [Substituted by section 2 of U. P. Act No. 21 of 1994.], appoint a Sunni Muslim Officer or as the case may be, a Shia Muslim Officer, not below the rank of a Joint Secretary to the State Government, as Controller of the Board, and such Controller shall perform, exercise and discharge the functions, powers and duties of the Board as well as of its President and Members. (3) On the appointment of a Controller under sub-section (2), the person appointed as Controller under sub-section (2) as it stood before the commencement of the Uttar Pradesh muslim Waqfs (Amendment) Act, 1994; shall cease to be such Controller.]

### **15. Election, etc. of the President.**

(1) Immediately after [the election, co-option, or nomination, as the case may be, of all the members other than the President] [Substituted by section 3 of U. P. Act no. 26 of 1966.] and subsequently

whenever it becomes necessary by reason of an existing or anticipated vacancy, or otherwise, to appoint a President, the Secretary of the Board shall convene [a meeting of such members] [Substituted by section 5 of U. P. Act no. 11 of 1974.] to elect a President. The members may elect either a person from among themselves or any other person as President :Provided that a mutawalli of a waqf to which this Act applies or a Government Treasurer or a whole-time servant of the Government or of any waqf administration shall not be elected as President.(2)The President shall be honorary [\* \* \*] [Omitted by section 6 of U. P. Act no. 3 of 1970.]

## **16. Conduct of Business.**

(1)The office of the Board shall be at Lucknow and the Board shall meet for the transaction of business at such times and place as may be prescribed.(2)The quorum for a meeting of the Board shall be one-half of the total number of members of the Board :Provided that where a meeting is adjourned for want of quorum, the quorum required for the first meeting after such adjournment shall be one-third of the total number of members of the Board, and where the meeting is again adjourned for want of quorum, no quorum shall be required for the second and subsequent adjourned meetings.(3)The decision of the Board shall be by a majority of its members present and voting. In case of equal division the President shall have a casting vote.

## **17. Appointment, etc. of Secretary.**

- The Board shall appoint a person to be its whole-time Secretary possessing such qualifications and on such pay, allowances and terms and other conditions of service as may be prescribed :Provided that the Secretary shall be a Muslim belonging to the Sunni sect in the case of Sunni Central Board and to the Shia sect in the case of Shia Central Board.

## **18. Staff of central Board.**

- The Board may appoint such staff and officers as may be necessary for the purpose of carrying out the provisions of this Act on such salaries, allowances and other conditions of service as may be prescribed.

## **19. Function of the Board.**

(1)The general superintendence of all waqfs to which this Act applies shall vest in the Board. The Board shall do all things reasonable or necessary to ensure that the waqfs [\*\*\*] [Deleted by section 5 (1) of U. P. Act no. 25 of 1963 and be deemed to have come into force on September 3, 1960.] under its superintendence are properly maintained, controlled and administered and the income thereof is duly appropriated to the purposes for which they were founded or for which they exist.(2)Without prejudice to the generality of the provisions of sub-section (1), the powers and duties of the Board shall be :-(a)to maintain a complete and authentic record containing information relating to the origin, income, objects and beneficiaries of every waqf in each district ;(b)to prepare and settle its own budget ;(c)to settle and pass the budgets submitted by the mutawallis to the Board;Provided

further that any objection made by any person interested in the waqf property, against, such lease, mortgage, transfer or conversion' within such time and manner as may be prescribed, shall be considered and decided before such lease, mortgage, transfer or conversion is completed ;(d)to remove a mutawalli, or appoint a mutawalli and to put the mutawalli so appointed in possession of the waqf property under the provisions of this Act :Provided that in the appointment of mutawallis or in making any other management of waqf property, the Board shall be guided, as far as possible, by the directions of the waqif, if any;(e)to issue directions under the provisions of this Act to, mutawalli or a committee of management or committee of supervision; and(f)to institute and defend suits and proceedings in a court of law relating to waqfs.

## **20. Delegation of powers.**

- Subject to such conditions and limitations, as may be specified, the Board may delegate to the President or to the Secretary or any other servant of the Board or to any member, such of its powers and duties under this Act, as it may deem necessary, and may like wise withdraw any such delegation.

## **21. Disqualifications and removal of members.**

(1)A person shall be disqualified for being appointed, or for continuing as, a President or member of the Board if he-(a)is a non-Muslim ;(b)is less than twenty-one years of age ;(c)is a person of unsound mind;(d)is an undischarged insolvent;(e)has been convicted of an offence involving moral turpitude; or(f)has, on any previous occasion, been removed from the office of a member or has been removed by order of a competent court from any position of trust either for mismanagement or corruption.(2)[The Board may remove its President or any of its members, if he] [Substituted by section 6(a)(i) of U.P. Act. No. 23 of 1995.] -(a)is or becomes subject to any disqualifications specified in sub-section (1) ; or(b)refuses to act or is incapable of acting or acts [whether as a President, emmber or otherwise] [Substituted by Section 6(a)(ii) of U.P. Act No. 23 of 1995.] in a manner which the Board, after hearing any explanation that he may offer, considers to be prejudicial to the interests of the waqfs ; or(c)absents himself from five consecutive meetings of the Board, without permission of the Board or without sufficient excuse.(3)The removal of [the President or] [Added by Section 6(b) of U.P. Act No. 23 of 1995.] any member under sub-section (2) shall be notified in the official Gazette.

## **22. Resignation of president and members.**

- The President or any member of the Board may resign his office by writing to the Board, and on such resignation being accepted by the Board, he shall be deemed to have vacated his office.

## **22A. [ Cessation of Members ship. [Inserted by Section 6 of U. P. Act No. 11 of 1974.]**



- A person who is a member of the Board in his capacity as a member of the State Legislature or as an Advocate or as a Mutawalli or as a representative of any other body shall cease to be member of the Board on his ceasing to hold that capacity.]

### **23. [ Filling of vacancy. [Subtituted by Section 7 of U.P. Act No. 23 of 1995.]**

- On the office of the President or any member becoming vacant by his removal, resignation, death or otherwise, a new President or member shall be elected, nominated or co-opted, as the case may be, in his place, in the manner provided in this Act, and such President or member shall hold office so long as the President or the member whose place he fills would have been entitled to hold office, if such vacancy had not occurred.]

### **24. Vacancies amongst members or defect in constitution not to invalid-date acts or proceedings of the Board.**

- No act or proceeding of the Board shall be deemed to be invalid by reason only of the existence of [any vacancy in the office of the President or any members] [Subtituted by section 8 of U.P. Act No. 23 of 1995.] or any defect in the constitution thereof.

### **25. Opinion of the Board.**

- The mutawalli of any waqf may apply by petition to the Board for its opinion, advice or direction on any question affecting the management or administration of the property of such waqf and the Board shall give its opinion, advice, or direction thereon :Provided that the Board shall not be bound to give such opinion, advice or direction on any question which is not in its opinion a fit question for summary disposal, or where the Board for any other reason to be recorded in writing, considers it inappropriate to do so.

### **26. Inspection of records and issue of copies.**

- [(1)] [Inserted section 4 of UP Act no 26 of 1966.] The Board may allow inspection of and issue copies of its proceedings or other records in its custody on payment of such fees and subject to such conditions as may be prescribed. All copies issued under this section shall be certified by the Secretary of the Board [or such other officer of the Board as the Secretary may by general or special order authorize in that behalf] [Section 26 renumbered as section 26(1) by section 9 (1) of U. P. Act No. 28 of 1971.] in the manner provided in section 76 of the Indian Evidence Act, 1872 (Act I of 1872) [and shall be received as prima facie evidence of the proceeding or record and be admitted as evidence of the matter or transaction therein recorded in every case where, and to the same extent, as, the original proceeding or record would, if produced, have been admissible to prove the matter or transaction.] [Inserted by section 9(1) of U. P. Act No. 28 of 1971.](2)[ No member, officer or servant of the Board shall, in any legal proceeding to which the Board is not a party, be required to produce any register or document, the contents of which can be proved under sub-section (1) by a certified copy, or to appear as a witness to prove the matter or transaction recorded therein, unless

the court, for reasons to be recorded, considers it necessary to make such an order.] [Inserted by of U. P. Act No. 28 of 1971.]

## **27. Sub-Committees.**

(1)The Board may, whenever it considers necessary, establish in any local area a sub-committee for the supervision of any waqf, or waqfs generally in that area.(2)The constitution, functions and duties of the sub-committee shall be such [as may from time to time be determined] [Inserted by section 9(2) of U. P. Act No. 28 of 1971.] by the Board.

## **Chapter III**

### **Registration of Waqfs**

## **28. Savings.**

- A waqf registered before the commencement of this Act under the U.P. Muslim Waqfs Act, 1936 (U.P. Act XIII of 1936), shall be deemed to have been registered under the provisions of this Act.

## **29. Registration.**

(1)Every other waqf, whether subject to this Act or not and whether created before or after the commencement of this Act, shall be registered at the office of the Board of the sect to which the waqf belongs.(2)Application for registration shall be made by the mutawalli within three months of his entering into possession of the waqf property :(3)The application for registration shall be made in such form and manner and at such place as the Board may prescribe and shall contain the following particulars, as far as possible -(a)a description of the waqf properties sufficient for the identification thereof ;(b)the gross annual income from such properties ;(c)the amount of land revenue, cesses, and rates and taxes annually payable in respect of the waqf properties;(d)an estimate of the expenses annually incurred in the realization of the income of the waqf properties ;(e)the amount set apart under the waqf for-(i)the salary of the mutawalli and allowances to individuals,(ii)purely religious purposes ;(iii)charitable purposes; and(iv)any other purpose; and(f)any other particulars prescribed by the Board.(4)Every such application [shall be accompanied by a copy of the Waqf Deed or, if no such deed has been executed or a copy there of cannot be obtained, shall contain full particulars, as far as they are known to the applicant, of the origin, nature and objects of the waqf.(5)Every application made under sub-section (2) shall be signed and verified by the applicant in the manner provided in the Code of Civil Procedure, 1908 (Act V of 1908) for the signing and verification of pleadings.(6)The Board may require the applicant to supply such other particulars or information as it may consider necessary.(7)On receipt of an application for registration, the Board may, before the registration of the waqf, make such inquiries as it thinks fit in respect of the genuineness and validity of the application and the correctness of any particular therein, and, when the application is made by any person other than the person administering the waqf property, the Board shall, before registering the waqf give notice of the application to the person administering the waqf property and shall, after affording him a reasonable opportunity of being heard, pass such

orders as it may deem fit.(8)Any person aggrieved by an order of the Board under subsection (7) may, by application within 90 days from the date of that order, refer the dispute to the Tribunal which shall give its decision thereon.

### **30. Register of waqfs.**

- The Board shall maintain a register of waqfs which shall contain in respect of each waqf, copies of the waqf deeds, when available, and the following particulars, namely:(a)the class of the waqf;(b)the name of the mutawalli;(c)the rule of succession to the office of mutawalli under the waqf deed or by custom or by usage;(d)particulars of all waqf properties and all title deeds and documents relating thereto;(e)particulars of the scheme of administration and the scheme of expenditure at the time of registration; and(f)such other particulars as may be prescribed.

### **31. Power to cause registration of waqf and to amend register.**

- The Board may direct a mutawalli to apply for the registration of a waqf, or to supply any information regarding a waqf or may itself collect information and cause the waqf to be registered or may at any time amend the register of waqfs.

### **32. Notification of change in registered waqfs.**

(1)In the case of any change in the management of a registered waqf due to the death or retirement or removal of the mutawalli, the incoming mutawalli shall forthwith, and any other person may, notify the change to the Board.(2)In the case of any other change in any of the particulars mentioned in section 29, the mutawalli shall, within three months from the date of occurrence of the change, notify such change to the Board.

### **33. Decision if a property is waqf property.**

(1)The Board may collect or cause to be collected information regarding any property which it has reason to believe to be a waqf property and if any question arises whether a particular property is waqf property or not, it may, after making such inquiry as it may deem fit, decide the question.(2)Any person aggrieved by the decision of the Board under sub-section (1) may, by application within 90 days from the date of such decision, refer the dispute to the Tribunal which shall give its decision thereon.

## **Chapter IV**

### **Finance of the Board**

### **34. Annual contributions by waqfs.**

(1)The mutawalli of every waqf to which this Act applies shall pay annually to the Board such contribution, not exceeding six percent of the net annual income of such of its property as is situate in Uttar Pradesh, as the Board may, subject to the sanction of the State Government, determine from time to time:Provided that in the case of a waqf part of the income whereof is applied for the benefit of the waqf or his descendants or family or any other private purpose, the aforesaid contribution shall not be levied on such part of the income.(2)The contribution under this section shall be payable with effect from the date on which this Act comes into force, and the contribution due from any waqf for any period preceding the commencement of this Act shall be deemed to be a contribution levied Under this Act and be recoverable in the manner provided ill this Act or the rules framed thereunder.(3)The Board may, in the case of any class of waqfs, reduce or remit; from time to time, such contribution for a specified period; provided that it shall be within the power of the Board to re-impose the contribution reduced or remitted either under this Act or under the U. P. Muslim Waqfs Act, 1936.(4)The contribution payable under sub-section (1) shall, subject to the prior payment of any dues to the State Government or any local authority or of any other statutory charge on the waqf property or the income thereof, be a first charge on the income of the waqf and shall, on a certificate issued by the Board after giving the mutawalli of the waqf concerned an opportunity of being heard, be recoverable in the manner provided in section 83.(5)If a mutawalli realises the income of the waqf and refuses or neglects to pay such contribution, he shall also be personally liable for such contribution and it may be realized from his person or property in the manner provided in sub-section (4).(6)The mutawalli of a waqf may realize the contributions payable by him under sub-section (1) from persons entitled to receive any pecuniary or other material benefits from the waqf, but the sum realizable from anyone of such persons shall bear to the total contribution the same proportion as the value of the benefits receivable by such person bears to the entire net annual income of these waqf.

### **35.**

[(1) Where any waqf is entitled to be paid any annuity on account of rehabilitation grant under section 99 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (U.P. Act I of 1951), any contribution payable by such waqf under section 34 of the extent of six percent of the aggregate of the said annuity and of the interest payable to the waqf on Zamindari Abolition Compensation Bond Stock Certificates issued under the rules made under the said Act, may be paid by the State Government out of such annuity on production by the Secretary of the Board of a certificate in the prescribed form] [Substituted by section 5 of U. P. Act no. 26 of 1966.]:Provided, however, that the amount paid shall not exceed six percent of the annuity.(2)Any sum paid by the State Government under and in accordance with sub-section (1) shall be full discharge of the State Government to the extent of the amount so paid.

### **36.**

For the purpose of giving effect to the provisions of this Act, the Board may, with the previous sanction of the State Government, borrow such sums of money and on such terms and conditions as

the State Government may determine.

### **37.**

(1) All moneys received by the Board under section 34 and all other moneys realised by the Board under this Act shall form a fund to be called the "Uttar Pradesh Shia Waqf Fund" or the "Uttar Pradesh Sunni Waqf Fund" as the case may be. (2) The Waqf Fund shall, subject to the control of the Board, be applied to - (a) repayment of any loan incurred under section 36 and payment of interest thereon; (b) payment of the cost of audit of the Waqf Fund; (c) payment of the salary and allowances of the Secretary and staff of the Board and the salary and allowances of the staff of a sub-committee, if found necessary, by the Board; (d) payment of travelling allowance to the President, members, Secretary and staff of the Board and of a sub-committee, if any; and (e) payment of all expenses incurred by the Board and sub-committee, if any, in the performance of the duties imposed, and in exercise of the powers conferred by or under this Act. (3) If any surplus or accumulation out of the income of the Board remains after meeting the expenditure referred to in sub-section (2) the Board may use such surplus accumulation or any portion thereof, for the preservation and protection of waqf properties or for such religious, pious or charitable purposes as the Board may deem fit.

### **38. Budget of the Board.**

- The Board shall in every year prepare, in such form and at such time, as may be prescribed, a budget for the next year, showing the estimated receipts and expenditure during that year, and forward a copy thereof to the State Government.

### **39. Accounts of the Board.**

(1) The Board shall cause to be maintained such books of account in such form and manner as may be prescribed. (2) The accounts of the Board shall be audited and examined annually by the chartered accountants appointed by the Board. (3) The report of the auditors shall, inter alia, specify all cases of irregular, illegal or improper expenditure or of failure to recover moneys or other property or of loss; and the report shall also contain the name of any person who, in the opinion of the auditors, is responsible, by his neglect or misconduct, for such expenditure or failure or loss.

### **40. Government to pass orders on audit report.**

- The auditors appointed under section 39 shall submit their report to State Government who shall examine the report and may call for the explanation of any person in regard to any matter mentioned therein, and shall pass such orders on the report as it thinks fit.

### **41. Recovery of sums due.**

- Every sum certified in the audit report to be due from any person, unless such certificate is modified or cancelled by an order of the State Government made under section 40 and every sum

due on such modified certificate, shall be paid by such person within a reasonable time to be fixed by the Board; and if payment is not made in that time, the sum payable may, after affording the person concerned an opportunity of being heard, be recovered in the manner provided in section 83.

## **Chapter V**

### **Special powers of the State Government**

#### **42. General supervision by the State Government.**

- The State Government -(i)shall exercise general supervision over the Board and may call for any document, record or information from the Board; and(ii)may further require the accounts of the Board to be audited by an auditor to be appointed by it.

#### **43. Power of the State Government to issue directions.**

- The State Government may, from time to time, give to the Board such general or special directions as the State Government thinks fit and in the performance of its functions the Board shall comply with such direction.

#### **44. Supersession of the Board.**

- In case of gross mismanagement and persistent dereliction of duty by the Board or when, in the opinion of the State Government, the Board has so flagrantly abused or exceeded the powers vested in it by law that its continuance is likely to prove detrimental to the public interest, the State Government may, by notification in the official Gazette, supersede the Board after affording it an opportunity to explain the charges against it and after taking into consideration the explanation, if any, submitted by it.

#### **45. State Government to take over functions of the Board.**

(1)Where the Board is superseded under the provisions of section 44, the State Government shall appoint an Administrator, who shall be a Sunni in the case of the Sunni Central Board and a Shia in the case of the Shia Central Board, to carry out the functions of the Board.(2)Upon the publication of notification under section 44 superseding the Board-(a)all the members of the Board shall, as from the date of suppression vacate their offices; and(b)all the power and duties which may, under the provisions of this Act, be exercisable or performable by or on behalf of the Board, shall, during the period of suppression, be exercised and performed by the Administrator and such administrator shall be deemed to be the Board for all purposes.

#### **46. Formation of and transfer of administration of waqf to the new Board.**

(1) Where the Board is superseded under the provisions of section 44, a new Board shall be constituted with one year of the date of suppression, in accordance with the provisions of this Act. Government shall, by notification in the official Gazette, transfer the administration of the waqfs to such Board and thereupon the Administrator appointed the State Government shall cease to exercise the functions of the Board from the date of the publication of such notification.

#### **47. Administration of properties of the Husainabad and affiliated Waqfs Act 15 of 1878.**

- [(1) The State Government shall settle the scheme of administration regarding the lwaqfs, endowments and trusts referred to in sub-section (2) of section 2.] [Substituted by section 6 (i) of U. P. Act no, 25 of 1963 and be deemed to have come into effect on September 3, 1960.](2) The State Government may in consultation with the Shia Central Board amend or modify the scheme of administration settled under sub-section (1) and State Government may issue directions from time to time to remove any doubt or difficulty in the administration of these [waqfs, endowments and trust.] [Substituted by section 6 (ii) of U. P. Act no, 25 of 1963 and be deemed to have come into effect on September 3, 1960.]

### **Chapter VI**

#### **Mutawallis and Waqfs Accounts**

#### **48. [ Emergency powers of board when office of Mutawalli of waqf vacant. [Substituted by section 6 of U. P. Act no. 26 of 1966.]**

- Without prejudice to the generality of the powers conferred by clause (o) of sub-section (2) of section 19, the Board may, where there is a vacancy in the office of the Mutawalli of a waqf  
-(a) appoint any person to act as Mutawalli for such period and on such conditions as it thinks fit ;  
or (b) by notification in the official Gazette assume direct management of the waqf for [such period not exceeding five years as may be specified in the notification;] Provided that in the case of a waqf created by a deed, the Board may act under this section only if there is no one competent to be appointed as Mutawalli under the terms of such deed.]

#### **49. Duty of Mutawallis.**

- It shall be the duty of every mutawalli-(a) to carry out all directions, consistent with the provisions of this Act, issued to him by the Board or, with the previous approval of the Board, by the sub-committee constituted under section 27 ;(b) to furnish such returns and supply such information or particulars as may from time to time be required by the Board or the sub-committee;(c) to allow inspection of waqf property, accounts or records or deeds and documents relating thereto;(d) to discharge all public dues; and (e) to do any other act which he is lawfully required to do by or under

this Act.

**49A. [ Transfer of immovable property of waqf. [Section 49A and 49B inserted by B. 12 of U. P. Act no. 28 of 1971.]**

- Notwithstanding anything contained in the deed or instrument, if any, by which the waqf has been created, no transfer by way of-(i)sale, gift, mortgage or exchange; or(ii)lease for a period exceeding three years in the case of agricultural land, or for a period exceeding one year in the case of non-agricultural and or building of any immovable property of the waqf shall be valid without the previous sanction of the Board.

**49B. Recovery of waqf property transferred in contravention of section 49A.**

(1)If the Board is satisfied after making an inquiry in such manner as may be prescribed that any immovable property entered as property of a waqf in the register of waqfs maintained under section 30, has been transferred without the previous sanction of the Board in contravention of the provisions of section 49-A, it may send a requisition to the Collector within whose jurisdiction the property is situate to obtain and deliver possession of the property to it.(2)On receipt of a requisition under sub-section (1), the Collector shall pass an order directing the person in possession of the property to deliver the property to the Board Within a period of thirty days from the date of the service of the order.(3)Every order passed under sub-section (2) shall be served -(a)by giving or tendering it or by sending it by post to the person for whom it is intended; or(b)if such person cannot be found, by affixing it on some conspicuous part of his last known place of "bode or business, or by giving or tendering it to some adult male member or servant of his family or by causing it to be affixed on some conspicuous Part of the property to which it relates:Provided that where the person on whom the order is to be served is a minor, service upon his guardian or upon any adult member or servant of his family shall be deemed to be service upon the minor.(4)Any person aggrieved by an order of the Collector under subsection (2) may, within a period of thirty days from the date of the service of the order, prefer an appeal to the Court of the District Judge within whose jurisdiction the property is situate.(5)The District Judge may either dispose of the appeal himself or may transfer it to the Court of any Additional District Judge or Civil Judge under his administrative control and may also withdraw any such appeal and either dispose of the same or transfer it to any other Court of Additional District Judge or Civil Judge under his administrative control, and in every case the decision of the court shall be final.(6)Where an order passed under sub-section (2) has not been complied with and the time for appealing against such order has expired without any appeal having been preferred or the appeal, if any, preferred within that time has been dismissed, the Collector shall obtain possession of the property in respect of which the order has been made, using such force as may be necessary, for the purpose, and then deliver it to the Board.(7)In exercising his functions under this section the Collector shall be guided by such rules as may be made in that behalf by the State Government.]



## **50. Budget and Accounts of Waqfs to be submitted by Mutawallis.**

- In particular and without prejudice to the generality of the duties prescribed in section 49, every mulawalli of a waqf shall-(a)prepare, in every year, a budget for the next financial year showing in such form as may be prescribed the estimated receipts and expenditure during that year, and submit it before the 31st March of the year to the Board for approval;(b)submit to the Board before the 1st day of May in every year, a full and true statement of accounts, in such form and containing such particulars as may be prescribed, and verified in the manner prescribed by the Code of Civil Procedure, 1908 for verification of pleadings, of all moneys received and expended by the mutawalli for behalf of the waqfs during the period of twelve months ending on the 31st day of March preceding the submission of such statement or during that portion of the said period during which the provisions of this Act have been applicable to the waqf :Provided that in respect of a waqf-alal-aulad the statement of accounts required to be submitted by the mutawalli shall relate only to such portion of the income as is specified or set apart for religious or charitable purposes.

## **51. Audit of Accounts of waqfs.**

(1)The accounts of waqfs submitted to the 'Board under section 50 shall be audited and examined annually or at such other intervals as the Board may determine, by an auditor appointed under section 18.(2)The auditor shall submit his report to the Board and the report of the auditor shall, inter alia, specify all cases of irregular, illegal or improper expenditure or of failure to recover money or other property or loss or waste of money caused by neglect or mis conduct of the mutawalli and any other matter which the auditor considers it necessary to report; and the report shall also contain the name of any person who, in the opinion of the auditor, is responsible for such expenditure or failure, and the auditor shall in every such case certify the amount of such expenditure or loss.(3)The costs of the audit of the accounts of a waqf shall be paid from the Waqf Fund.

## **52. Board to pass orders on Audit Report.**

- The Board shall examine the auditor's report, and may call for the explanation of any person in regard to any matter mentioned therein, and shall pass such orders on the report as it thinks fit.

## **53. Recovery of dues.**

(1)Every sum certified by an auditor in his, report under section 51 to be due from any person, unless such certificate is modified or cancelled by an order of the Board made under section 52 and every sum due on a modified certificate, shall be paid by such person within sixty days after the service of notice of demand for the same issued by the Board.(2)If such payment is not made within the period mentioned above, the sum payable may, on a certificate issued by the Board after affording the person concerned an opportunity of being heard, be recovered in the manner provided in section 83.

## 54. Penalties.

(1) If a mutawalli fails without reasonable cause or excuse, the burden of proving which shall be upon him :- (a) to apply for registration of a waqf as provided in section 29 ; or (b) to submit statements of particulars or of accounts and returns and to have the accounts audited as required by this Act; or (c) to supply information or particulars required by the Board or a sub-committee; or (d) to allow inspection, under the provisions of this Act, of waqf properties and deeds and documents relating thereto; or (e) to give assistance in enquiries and investigations when called upon to do so by the Board or by a sub-committee or by a Superintendent, Inspector, Auditor or any other person working under the orders of the Board ; or (f) to deliver possession of any waqf property if ordered to do so by the Board; or (g) to deposit any surplus income in his hands in any recognized bank when directed to do so by the Board; or (h) to carry out the directions given by the Board or a sub-committee consistent with the provisions of this Act; or (i) to do any other act which he is by or under this Act, required to do, he shall be liable to pay such penalty, not exceeding rupees fifty for the first contravention and rupees two hundred and fifty for every subsequent contravention, as the Board may determine. (2) The State Government may suo motu or on the application of the person aggrieved, call for the record of any case for the purpose of satisfying itself as to the correctness, legality or propriety of the order imposing penalty under sub-section (1) and may pass such orders as it deems fit.

## 55. Removal of Mutawallis.

(1) The Board may, after affording him an opportunity of being heard, remove a mutawalli other than a Managing Committee from his office the- (i) is fined on more than one occasion under section 54; or (ia) [ has failed to pay, without reasonable excuse, for two consecutive years, the contribution payable by him under section 34 ; or] [Insertion by section 13 of U. P. Act No. 28 of 1971.] (ii) is convicted of an offence relating to the waqf property or money which, in the opinion of the Board, renders him unfit to continue as mutawalli; or (iii) is convicted of an offence involving moral turpitude or is required to furnish security under section 109 or section 110 of the Code of Criminal Procedure, 1898 ; or (iv) wrongly destroys or alienates any waqf property; or (v) is adjudged insolvent; or (vi) is, in the opinion of the Board, . unfit to discharge the duties of a mutawalli owing to any physical or mental disability, or moral delinquency ; or (vii) is guilty of misappropriation or gross mismanagement of waqf property, or has persistently neglected to comply with the directions given by the Board for the proper management of the waqf. (2) Any, Person aggrieved by an order of removal under subsection (1) may, by an application, refer the matter to the Tribunal within 90 days of the date of communication of the order of removal.

## Chapter VII

### Special powers of the Board

## **56. Application for inquiry.**

- A beneficiary or any person interested in a waqf, may make an application to the Board supported by an affidavit to institute an enquiry relating to the administration of the waqf, or for the examination and audit of the accounts thereof, and the Board may make or cause to be made through its own officer, or through, a sub-committee constituted under section 27, such enquiry, examination or audit as it may deem fit.

## **57. Inquiry by the Board.**

- If, after enquiry made on an application under section 56, or made by the Board suo motu, the Board is of opinion that the mutawalli or the committee of management has acted otherwise than in accordance with the terms and conditions of the waqf, it may direct the mutawalli or the committee of management to take such action as the Board may deem expedient.

## **57A. [ Recovery of possession of waqf property from un-authorized occupants. [Inserted by section 14 of U. P. Act No. 28 of 1971.]**

(1) If the Board is satisfied after making an inquiry in such manner as may be prescribed that any person is in an authorised occupation of any immovable property entered as property of a waqf in the register of waqfs maintained under section 30 it may send a requisition to the Collector with in whose jurisdiction the property is situate to obtain and deliver possession of the property to it. (2) The provisions of sub-sections (2), (3), (4), (5), (6) and (7) of section 49-B shall mutatis mutandis apply in relation to a requisition under sub-section (1) as they apply in relation to a requisition under sub-section (1) of that section.]

## **58. Powers of inquiring authority.**

- For the purposes of an inquiry under this [Act] [Substituted by section 15 of U. P. Act no. 28 of 1971.] the inquiring officer or committee shall have the same power of enforcing the attendance of witnesses and production of documents as the civil court has under the Code of Civil Procedure , 1908 (Act V of 1908).

## **59. Determination of object of a waqf whose object does not exist, etc.**

(1) Where the object of any waqf has ceased to exist or cannot be accomplished, then notwithstanding anything contained in section 92 of the Code of Civil Procedure, 1908, or any law for the time being in force, the Board may, on its own motion or on the application of a member of the sect to which the, waqf belongs, determine the object to which the funds, property or income of the waqf or part thereof, shall be applied : Provided that before such determination of the object the Board shall give notice to the mutawalli of the waqf, and to such other persons as may appear to the Board to be interested therein and shall make such inquiry as it may deem necessary: Provided further that the object So determined by the Board shall be similar, or as nearly similar as may be

practicable, to the object for which the waqf was created.(2)The mutawalli or any other person interested in the waqf, may, within 90 days from the date of the order under sub-section (1) refer the matter to a Tribunal.

## **60. Direction where the object of a waqf is not evidenced.**

(1)If in any case the object of a waqf is not defined with precision, the Board shall direct the manner in which the funds, property or income of the waqf, or any surplus thereof, shall be utilized :Provided that no such direction shall be given without first affording to the persons affected an opportunity of being heard.(2)Any person affected by the direction of the Board under sub-section (1) may, within 90 days from the date of such direction, refer the matter to a Tribunal in accordance with the provisions of this Act, but pending the decision of the Tribunal on such reference, the direction of the Board shall be complied with.

## **61. Exercise of certain powers given in the deed, etc. to a Judge or other authority.**

- Whenever the deed of a waqf or any decree or order of a Court or the scheme of management of the waqf provides that a Judge or any other authority may appoint or remove a mutawalli or settle or modify the scheme of management or otherwise exercise superintendence over the waqf, the powers exercisable by the Judge or such other authority shall, notwithstanding anything in the deed of waqf, decree, order or scheme, be exercisable by the Board as far as may be in accordance with the directions contained in the deed of waqf, decree, order or scheme, as the case may be.

## **62. Powers to secure discharge of obligations.**

(1)Where a mutawalli is under an obligation to perform any act which is recognized by Muslim law as pious, religious or charitable and the mutawalli fails to perform such act, the Board may direct the mutawalli to pay to the Board or to any person authorized by the Board in this behalf, the amount necessary for the performance of the act and the Board or the person so authorized shall perform such Act.(2)Where a mutawalli refuses to pay or fails to pay any revenue, cess, rates or taxes due to the State Government or any local authority, the Board may pay the dues from the Waqf Fund and may recover the amount so paid from the waqf property.(3)Any sum of money due under sub-section (2) may, on a certificate issued by the Board after giving the mutawalli concerned an opportunity of being heard, be recovered in the manner provided in section 83.

## **63. Committees of supervision and Board's Power to supersede them.**

(1)Whenever the supervision or management of a waqf is vested in any committee appointed by the waqif or any competent court or authority, such committee shall, notwithstanding anything in the Act, continue to function until superseded by the Board under sub-section (2) :Provided that such committee shall be under the control of the Board and shall abide by such directions of the Board as are not inconsistent with any directions of the waqif or the court or authority appointing such

committee.(2)Notwithstanding anything contained in the Act, the Board may supersede any Such committee as aforesaid if it does not, in its opinion to be recorded in writing, function properly and satisfactorily and on such suppression, any decree or order of a court or competent authority under which such committee has been constituted, shall cease to have any force in so far as it relates to the constitution of such committee.(3)An order passed by the Board under sub-section (2) shall be final and shall not be questioned in any court of law:Provided that any party aggrieved by an order under sub-section (2) may, within 90 days from the date of the order, refer the matter to a Tribunal for adjudication.(4)Where the Board supersedes a committee by an order under sub-section (2), it may either appoint a new committee of supervision or management, or may assume direct management of the waqf.(5)Where in a case in which the Board has assumed direct management of a waqf or appointed a mutawalli or a committee of management and the Board or the mutawalli or committee so appointed, is prevented from taking possession of the property of the waqf or of any title deeds or other deeds or other documents relating thereto, [the Board may by order direct the mutawalli to deliver possession of the waqf property and the title deed or the documents relating thereto to the Board or any officer thereof duly authorized in that behalf or to any person or committee appointed to act as the mutawalli of the waqf property, and the order of the Board shall be forwarded to the Court of Munsif, or where there in no Munsif, the Court of Civil Judge, within whose territorial jurisdiction the said property is situate or the said mutawalli, resides, and the court shall thereupon execute the order as if it were a decree made by itself in a suit.] [Substituted by section 16 of U. P. Act no. 28 of 1971.](6)The Board may instead of superseding any committee under sub-section (2) remove any member thereof if the Board is satisfied that the member has flagrantly abused his position as such or has knowingly acted in a manner prejudicial to the interest of the waqf. The order of removal shall be duly served on the member concerned:Provided that no order for removal of the member shall be made unless an opportunity has been afforded to him of being heard :Provided further that an appeal shall lie within 30 days from the date of service of the order of removal, to the State Government and the order of the State Government, on appeal, shall be final and be not questioned in any court of law.

## Chapter VIII

### **Certain suits or proceedings relating to waqfs by, or against, the Board or by others :**

#### **64. Institution of suits under section 14 of the Religious Endowments Act, 1863 and section 92 of the Code of Civil Procedure, 1908 Act 20 of 1863 Act 5 of 1908.**

(1)A suit to obtain any of the reliefs mentioned in section 14 of the Religious Endowments Act, 1863, and in section 92 of the Code of Civil Procedure, 1908, relating to any waqf may, notwithstanding anything to the contrary contained in those Acts, to be instituted by the Board without obtaining the leave or consent referred to in those Acts.(2)No suit to obtain any of the reliefs referred to in sub-section (1) relating to a waqf shall be instituted by any person or authority other than the Board without the consent in writing of the Board [and where the board has given such consent, it shall not

be necessary further to obtain the leave or consent referred to in the said Acts.] [Inserted by section 7 of U. P. Act No. 26 of 1966.]

## **65. Notice of suits by parties against the Board.**

- No suit shall be instituted against the Board in respect of any act purporting to be done by it in pursuance of this Act or of any rules made thereunder, until the expiration of two months, next after notice in writing, has been delivered to, or left at; the office of the Board, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

## **66. Notice of suits, etc. by court.**

(1) In every suit or proceeding relating to the title to waqf property or the right of a mutawalli, the court shall issue notice to the Board at the cost of the party instituting such suit or proceeding. (2) Whenever any waqf property is notified for sale in execution of a decree of a civil court or for the recovery of any revenue, cess, rates or taxes due to the Government or any local authority, notice shall be given to the Board by the Court, Collector or other person under whose order the sale is notified. (3) In the absence of a notice under sub-section (1), any decree or order passed in the suit or proceeding, shall be declared void if the Board, within one month of its becoming aware of such suit or proceedings, applies to the court in this behalf. (4) In the absence of a notice under sub-section (2), the sale shall be declared void, if the Board, within one month of its becoming aware of the sale, applies in this behalf to the court or other authority under whose order the sale was held.

## **67. Proceeding under the Land Acquisition Act, 1894.**

(1) If, in the course of proceedings under the Land Acquisition Act, 1894 (Act 1 of 1894), it appears to the Collector before an award is made that any property under acquisition is waqf property, a notice of such acquisition shall be served by the Collector on the Board and further proceedings shall be stayed to enable the Board to appear and plead as a party to the proceeding at any time within three months from the date of the receipt of such notice. (2) Where the Board has reason to believe that any property under acquisition is waqf property, it may, at any time before the award is made, appear and plead as a party to the proceeding. (3) When the Board has appeared under the provisions of subsection (1) or sub-section (2), no order shall be passed under section 31 or section 32 of the Land Acquisition Act, 1894 (Act 1 of 1894), without giving an opportunity to the Board of being heard. (4) Any order passed under section 31 or section 32 of the Land Acquisition Act, 1894 (Act 1 of 1894), without giving an opportunity to the Board of being heard, shall be declared void if the Board within one month of its becoming aware of the order applies in this behalf to the authority which made the order.

## **68. Board to be made a party to a suit or proceeding regarding a waqf on its application.**

- In any suit or proceeding in respect of a waqf or any waqf property by or against a stranger to the waqf or any other person, the Board may appear and plead as a party to the suit or proceeding.

## **69. Bar to compromise of suits by or against mutawallis.**

- No suit or proceeding pending in any court by or against the mutawalli of a waqf relating to title to waqf property or the rights of the mutawalli shall be compromised without the sanction of the Board.

## **69A. [ Bar and suit etc. for certain reliefs. [Insertion by section 17 of U.P. Act No. 28 of 1971.]**

- No suit or other proceeding shall be instituted by the Board in a civil court for any relief which may be obtained by proceedings under section 49-B or section 57-A.]

## **Chapter IX**

### **Tribunals - Their Constitution,**

## **70. Powers and Functions Constitution of Tribunals.**

(1)The State Government may, by notification in the official Gazette, constitute as many Tribunals as may be necessary for the purposes of this Act. Each Tribunal shall have jurisdiction over such areas in the State as may be specified.(2)A Tribunal shall consist of one person only, who shall be a judicial Officer of the State Government, not below the rank of a Civil Judge, and who may be appointed as such either by name or by official designation.

## **71. References of disputes etc. to Tribunals.**

- Any dispute, question or matter, which may under this Act be referred to a Tribunal, shall be referred to a Tribunal having jurisdiction over the area in which the property to which such dispute, question or matter relates is situate or if such property is situate in areas under the jurisdiction of more than one Tribunal, then to any of them, and the Tribunal of competent jurisdiction shall adjudicate upon such dispute, question or matter in accordance with the provisions of this Act:Provided that no proceedings under this Act in respect of any waqf shall be stayed or suspended merely by reason of the pendency of any such dispute, question or matter before a Tribunal.

## **72. Procedure before Tribunals.**

(1) Subject to the provisions of this Act and any rules that may be made in this behalf, a Tribunal shall follow the same procedure as is provided in the Code of Civil Procedure, 1908 (Act V of 1908), in regard to suits. (2) The provisions of the Indian Evidence Act, 1872 (Act I of 1872), shall be deemed to apply in all respects to the adjudication of disputes by a Tribunal.

## **73. Awards by Tribunals.**

(1) When a dispute has been referred to a Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, as soon as practicable on the conclusion thereof, give its award in writing under its signature. (2) A Tribunal may, either of its own motion or on the application of any party to the dispute, correct any clerical or arithmetical mistake in the award, or error arising therein from any accidental slip or omission. (3) A copy of the award and whenever a correction is made in the award as aforesaid, a copy of the order shall be handed over to each of the parties to the dispute, or if any party is not present before the Tribunal at the time of the award or order, as the case may be, a copy of it shall be sent by registered post to the address of such party.

## **74. Powers of Tribunals.**

- A Tribunal shall be deemed to be a civil court and, shall have the same powers as are vested in such a court under the Code of Civil Procedure 1908 (Act V of 1908), when trying a suit or executing a decree or order.

## **75. Bar to suits in matters to be decided by Tribunals.**

- No person shall institute any suit or other proceeding in any civil court with respect to any dispute or question or matter which is required or permitted under this Act to be referred to a Tribunal for adjudication.

## **76. Award not appealable.**

- The award of a Tribunal shall be final and conclusive and binding upon the parties concerned and the award shall have the force of decree and it shall neither be questioned nor appealed against in any court of law : Provided that the High Court may, in its discretion, at any time suo moto or on the application of the Board or of any person aggrieved, call for and examine the record of any case for the purpose of satisfying itself as to the correctness, legality or propriety of any award made under this Act, and pass such orders as it deems fit.

## **77. Removal of difficulties.**

(1) The State Government may, for the purpose of removing any difficulties in regard to the implementation of the provisions of sections 70 to 76 of this Act, direct, by order published in the



official Gazette, that these provisions shall during such period as may be specified, take effect subject to such adaptations, (whether by way of modification, addition or omission) as it may deem to be expedient or necessary: Provided that no such order shall be made after twenty-four months from the date of the commencement of this Act. (2) No order, made under sub-section (1), shall be questioned in any court of law, on the ground that no difficulty as is referred to in the said sub-section existed or was required to be removed.

## Chapter X

### Miscellaneous

#### 78. Power to make rules.

(1) The State Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely- (a) the manner in which reference shall be made to a Tribunal; and (b) the procedure and time-schedule to be followed by a Tribunal. (3) All rules, made under this Act, shall be published in the official Gazette, and shall, unless some later date is appointed, come into force on the date of such publication. (4) All rules shall be laid for not less than fourteen days before the State Legislature as soon as they are made and shall be subject to such modifications as the Legislature may make during the session in which they are so laid.

#### 79. Board's power make bye-laws.

(1) The Board may, subject to the previous approval of the State Government, make bye-laws consistent with this Act for carrying out its functions and the provisions of this Act. (2) In particular, and without prejudice to the generality of the foregoing powers, such bye-laws may provide for all or any of the following matters, namely- (a) [\* \* \*] [Omitted by section 7 of U. P. Act No. 11 of 1974.]; (b) the time and place of the meetings of the Board, their procedure and conduct of business; (c) the qualifications, emoluments, terms and conditions, of service of the Secretary and the staff of the Board; (d) fees and conditions for the grant of inspection and copies of the Board's proceedings or records; (e) the constitution, functions, procedure and conduct or business of the sub-committee; (f) the form and manner of making applications for registration of waqfs; (g) the particulars to be contained in, and the form of, the register of waqfs; (h) the method of calculating the income of a waqf for the purpose of levying contribution under this Act; (i) the form and manner of preparation of the annual budget and accounts of the Board and of each waqf; (j) the form and manner of submission of various returns. required by the Board in respect of any or each waqf; (k) the custody and investment of the Waqf's Fund; (l) the grant of travelling allowance to the President or members of the Board; (m) the books and accounts to be kept at the office of the Board and of the sub-committee, if any; (n) the manner of keeping, auditing and publishing of the accounts of waqfs, the form and content of the auditor's report and the scale of remuneration to be paid to the auditors; (o) the fee to be paid on applications before the Board or the sub-committee; (p) persons by whom any order or decision of the Board may be authenticated; and (q) any other matter which is

required or allowed by this Act to be prescribed by the Board.

## **80. Rules bye-laws & names of members and Presidents to be notified.**

(1) All rules and bye-laws framed under this Act, shall be published in the official Gazette and shall thereafter have the force of law. (2) The names of the members and Presidents of the Boards shall be published in the official Gazette.

## **81. Protection of actions taken in good faith.**

(1) No suit or other legal proceeding shall lie against the State Government or the Board or the Commissioner or any other person duly appointed under this Act in respect of anything which is in good faith done or intended to be done under this Act. (2) The Commissioner, the Additional Commissioner of waqfs, the Assistant Commissioner of waqfs, every auditor, every officer and servant of the Board and every other person duly appointed to discharge any duties imposed on him by this Act or rules or orders made thereunder, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Act XLV of 1860).

## **82. Surplus and accumulation.**

- All money that may be available as surplus or accumulation out of the income of waqfs shall be spent on such charitable or religious objects recognized by the Muslim law as such, as may be determined by the Board. Such money may be given as loan, with the approval of the Board, by one waqf to another on such terms and conditions as may be prescribed.

## **83. Recovery of dues by distress.**

- The contribution payable under section 34 and every sum recoverable under this Act may be recovered by the Board by means of distress and sale of movable or immovable property belonging to the person liable for payment, or by the appointment of a receiver of waqfs property in accordance with rules framed by the State Government in this behalf.

## **84. No liability on State Government.**

- The State Government shall not be liable for any expenditure incurred in connection with the administration of this Act.

## **85. Repeals and savings.**

(1) Nothing in any other enactment, which is inconsistent with the provisions of this Act shall apply to any waqfs to which this Act applies. (2) The U. P. Muslim Waqfs Act, 1936 (U.P. Act no. XIII of 1936), as amended from time to time, and the Husainabad Endowment Act, 1878 (Act XV of 1878), are hereby repealed : [The following enactments are also hereby repealed in their application to any

waqf to which this Act applies -(1)the Bengal Charitable Endowments, Public Buildings and Escheats Regulation 1810 (Act XIX of 1810);(2)the Religious Endowments Act, 1863 (Act XX of 1863);(3)the Charitable Endowments Act, 1890 (Act VI of 1890);(4)the Charitable and Religious Trusts Act, 1920 (Act XIV of 1920):]Provided that this repeal shall not effect the operation of those Acts in regard to any suit or proceeding pending in any court or to an appeal or an application in revision against any order that may be passed in such suit or proceeding and subject thereto, anything done or any action taken in exercise of powers conferred by or under those Acts shall, unless otherwise expressly required by any provision of this Act be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action was taken.[Insertion by section 18 of U. P. Act no. 28 of 1971.]