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**Waqf Act 1995 Chapter I - Preliminary**

**1. Short title, extent and commencement:**

- (1) This Act may be called the Waqf Act, 1995.
- (2) It extends to the whole of India.
- (3) It shall come into force in a State on such date<sup>4</sup> as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different areas within a State and for different provisions of this Act, and any reference in any provision to the commencement of this Act, shall, in relation to any State or area therein, be construed as reference to the commencement of that provision in such State or area.

**2. Application of the Act:**

Save as otherwise expressly provided under this Act, this Act shall apply to all auqaf whether created before or after the commencement of this Act: Provided that nothing in this Act shall apply to Durgah Khawaja Saheb, Ajmer to which the Durgah Khawaja Saheb Act, 1955 (36 of 1955) applies.

**3. Definitions:**

In this Act, unless the context otherwise requires,—

- (a) “beneficiary” means a person or object for whose benefit a waqf is created and includes religious, pious and charitable objects and any other objects of public utility sanctioned by the Muslim law;
- (b) “benefit” does not include any benefit which a mutawalli is entitled to claim solely by reason of his being such mutawalli;

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**(c) “Board” means a Board of Waqf established under sub-section (1), or as the case may be, under sub-section (2) of section 13 and shall include a common Waqf Board established under section 106;**

**(d) “Chief Executive Officer” means the Chief Executive Officer appointed under sub-section (1) of section 23;**

**(e) “Council” means the Central Waqf Council established under section 9; (ee) “encroacher” means any person or institution, public or private, occupying waqf property, in whole or part, without the authority of law and includes a person whose tenancy, lease or licence has expired or has been terminated by mutawalli or the Board;**

**(f) “Executive Officer” means the Executive Officer appointed by the Board under sub-section (1) of section 38;**

**(g) “list of auqaf” means the list of auqaf published under sub-section (2) of section 5 or contained in the register of auqaf maintained under section 37;**

**(h) “member” means a member of the Board and includes the Chairperson;**

**(i) “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 person who is a mutawalli of a waqf by virtue of any custom or who is a naib-mutawalli, khandim, mujawar, 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, committee or corporation for the time being, managing or administering any waqf or waqf property:**

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**Provided that no member of a committee or corporation shall be deemed to be a mutawalli unless such member is an office-bearer of such committee or corporation:**

**Provided further that the mutawalli shall be a citizen of India and shall fulfil such other qualifications as may be prescribed: Provided also that in case a waqf has specified any qualifications, such qualifications may be provided in the rules as may be made by the State Government;**

**(j) “net annual income”, in relation to a waqf, means net annual income determined in accordance with the provisions of the Explanations to sub-section (1) of section 72;**

**(k) “person interested in a waqf” means any person who is entitled to receive any pecuniary or other benefits from the waqf and includes—**

**(i) any person who has a right to offer prayer or to perform any religious rite in a mosque, idgah, imambara,dargah, khanqah, peerkhana and karbala, maqbara, graveyard or any other religious institution connected with the waqf or to participate in any religious or charitable institution under the waqf;**

**(ii) the waqif and any descendant of the waqif and the mutawalli;**

**(l) “prescribed”, except in Chapter III, means prescribed by rules made by the State Governments;**

**(m) “regulations” means the regulations made by the Board under this Act;**

**(n) “Shia waqf” means a waqf governed by Shia Law;**

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**(o) “Sunni waqf” means a waqf governed by Sunni Law;**

**(p) “Survey Commissioner” means the Survey Commissioner of Waqf appointed under sub-section (1) of section 4 and includes any Additional or Assistant Survey Commissioners of Auqaf under sub-section (2) of section 4;**

**(q) “Tribunal”, in relation to any area, means the Tribunal constituted under sub-section (1) of section 83, having jurisdiction in relation to that area;**

**(r) “waqf” means the permanent dedication by any person, of any movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable and includes—**

**(i) a waqf by user but such waqf shall not cease to be a waqf by reason only of the user having ceased irrespective of the period of such cesser;**

**(ii) a Shamlat Patti, Shamlat Deh, Jumla Malkkan or by any other name entered in a revenue record;**

**(iii) “grants”, including mashrat-ul-khidmat for any purpose recognised by the Muslim law as pious, religious or charitable; and**

**(iv) a waqf-alal-aulad to the extent to which the property is dedicated for any purpose recognised by Muslim law as pious, religious or charitable, provided when the line of succession fails, the income of the waqf shall be spent for education, development, welfare and such other purposes as recognised by Muslim law, and “waqif” means any person making such dedication;**

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**(s) “waqf deed” means any deed or instrument by which a waqf has been created and includes any valid subsequent deed or instrument by which any of the terms of the original dedication have been varied; (t) “Waqf Fund” means a waqf fund formed under sub-section (1) of section 77.**

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