



Foundation

MODERNISING WAQF GOVERNANCE IN MAURITIUS

**A Policy Framework for Modern Governance,
Shariah Compliance, and Sustainable Waqf
Administration in Mauritius**

October 2025

Disclaimer:

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P R E A M B L E

Waqf has historically played a central role in the social, educational, religious, and economic life of Muslim societies. Properly governed, it serves as a perpetual instrument for public benefit, social justice, and sustainable development. In Mauritius, the Waqf Act 1941 provided an early statutory framework for the recognition and administration of waqf, reflecting the legal, social, and colonial realities of its time.

More than eight decades later, the legal, financial, and governance landscape has evolved significantly. Contemporary expectations of transparency, fiduciary accountability, Shariah compliance, financial integrity, and alignment with national development objectives now demand a reassessment of the existing framework. The current Act, while foundational, no longer adequately addresses modern governance standards, Islamic finance integration, cross-border realities, or emerging forms of waqf such as cash waqf, digital waqf, and investment-enabled endowments.

This report has been prepared to support a structured, principled, and forward-looking reform of the Waqf Act 1941. It undertakes a diagnostic review of the Act from Shariah, legal, governance, and operational perspectives, and benchmarks Mauritius against international best practices drawn from jurisdictions with mature and modern waqf regimes.

The objective of this report is not merely legislative amendment, but institutional renewal. It seeks to reposition waqf as a credible, professionally governed, and Shariah-aligned instrument capable of contributing meaningfully to social welfare, financial inclusion, and national development, while safeguarding constitutional principles and public trust.

This reform proposal is offered as a constructive policy framework for consideration by the Government of Mauritius and relevant stakeholders, with the intention of enabling informed decision-making and sustainable long-term reform.

DISCLAIMER

This report has been prepared by ILMA Foundation as an independent policy and governance reform submission concerning the Waqf Act 1941 of Mauritius. It is intended solely to support policy deliberation, legislative review, academic analysis, and institutional capacity-building.

The analysis, observations, and recommendations contained in this report are based on a review of the Waqf Act 1941 (as amended), comparative international practices, publicly available materials, and generally accepted principles of Shariah governance, public law, and institutional administration. While care has been taken to ensure accuracy and objectivity, this report does not purport to provide legal advice, binding interpretations, or authoritative rulings.

Nothing in this report should be construed as alleging misconduct, liability, or wrongdoing by any individual, officeholder, institution, or authority. References to weaknesses, gaps, or deficiencies are made strictly in the context of systemic and legislative reform, and not as findings of fault.

The proposals and draft legislative concepts set out herein are advisory in nature. Their adoption, modification, or implementation remains entirely within the discretion of the Government of Mauritius, Parliament, and the competent authorities. This report does not constitute an official policy document, nor does it imply endorsement by any ministry, regulator, or public body.

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1.0 EXECUTIVE SUMMARY

This reform report presents a structured diagnostic and reform proposal for the modernisation of Waqf law and administration in Mauritius. Drawing on the Waqf Act 1941 (as amended), comparative international practices, the document identifies critical areas for reform: Shariah compliance, governance, investment strategy, and cross-border waqf facilitation.

The current framework suffers from gaps in transparency, limited investment flexibility, outdated governance structures, and insufficient integration with contemporary Islamic finance and national development objectives. Comparative jurisdictions such as India, Malaysia, Turkey, Saudi Arabia, South Africa, and the UK illustrate the importance of regulatory clarity, professional trusteeship, and Shariah-aligned investment policies, which Mauritius must now adopt.

The proposed reforms aim to align Mauritius with global waqf governance standards while safeguarding constitutional, financial, and ethical responsibilities. This reform report provides a detailed review of the Act (Parts I–VIII) and introduces an additional Part IX, setting out a reform blueprint that enables:

- A transparent, investment-enabled waqf regime
- Efficient and accountable administration
- Shariah compliance in both form and spirit
- Alignment with national development, financial inclusion, and foreign investment objectives

Two supporting annexes accompany this reform report:

- **Annex A** – International best practices (jurisdiction-by-jurisdiction review)
- **Annex B** – Proposed legislative amendments to the Waqf Act (Redline version)

Key Messages

- **The Waqf Act 1941 is outdated:** it lacks clarity on governance, investment, fiduciary duties, and modern waqf instruments (cash waqf, digital waqf, ESG-linked waqf).
- **Reform must be holistic:** piecemeal amendments will not suffice; Mauritius requires a modern, consolidated Waqf Code with strong governance and oversight.
- **Waqf can be transformative:** if reformed, waqf can serve as a driver of social justice, affordable housing, education, healthcare, and inclusive economic empowerment.
- **Mauritius has a strategic advantage:** with its financial hub status, plural legal heritage, and international credibility, Mauritius can position itself as a regional leader in waqf and Islamic social finance.
- **A phased roadmap is proposed:** short-term reforms to restore credibility, medium-term integration into national development, and long-term positioning as a global hub.
- **Decisions are urgent:** the policy pathway identified in this reform report requires clarity on governance, finance, and institutional structure to unlock the waqf sector's true potential.

2.0 SHARIAH ISSUES

The current Waqf Act and related practices contain several provisions that may conflict with fundamental Shariah principles. The following table identifies these inconsistencies and proposes remedial actions based on international standards.

Issue (with Section / Reference)	Shariah Conflict	Recommendation
Sectarian limitation (Hanafi/Shia only)	Excludes Shafi'i, Maliki, Hanbali interpretations. Discriminatory and inconsistent with tradition.	Broaden scope to "Muslim law" or all <i>madhahib</i> .
Section 26 – Revocability and alteration	Waqf must be irrevocable once constituted. Allowing revocation or alteration contradicts classical permanence.	Remove revocability/alteration provisions; align with AAOIFI standards.
Section 6 – Testamentary waqf beyond one-third	Allows testamentary waqf exceeding one-third without heirs' consent, which violates wasiyyah rules.	Impose one-third limit, with excess only by heirs' consent.
Section 7 – Retention of personal benefits by waqif	Allows founder to benefit personally, contrary to the principle of waqf (no self-benefit).	Prohibit or restrict waqif's personal benefits to limited usufruct.
Sections 7–8 – Mixing of charitable and family waqf	Blurs distinction between <i>waqf alal aulad</i> and public charitable waqf; risk of abuse.	Require separation of charitable vs. family waqf structures.
Section 18 – Lack of perpetuity safeguard	Permits vague or temporary dedications, undermining waqf perpetuity.	Insert explicit rule of perpetuity for all waqf.
Lack of prohibition on riba-based investments	The Act does not bar interest-bearing assets. This risks investing waqf in riba, which is prohibited.	Insert explicit prohibition on riba-based assets; require Shariah-compliant screening.
Silence on investment screening	No rules preventing speculative or non-Shariah investments.	Require Shariah-compliant investment policy (e.g. sukuk, ijara, musharakah).
Absence of charitable intent test	Risk of using waqf as disguised settlement/family trust.	State expressly that charitable intent must be dominant.
Absence of Shariah Supervisory Board	No Shariah oversight framework for waqf administration.	Establish requirement for Shariah Supervisory Board.

Absence of istibdal (exchange of assets) provisions	No clarity on lawful exchange/reinvestment of waqf assets.	Insert rules on istibdal with Shariah oversight.
No link with zakat/Islamic social finance	Missed opportunity to integrate waqf with broader Islamic finance.	Provide enabling provisions for zakat–waqf integration.

3.0 PRACTICAL / OPERATIONAL GAPS

While the Waqf Act 1941 establishes the basic legal foundation for waqf in Mauritius, it contains significant administrative weaknesses that have constrained effective governance and asset management. These gaps are primarily operational rather than doctrinal, but they directly affect the sustainability, transparency, and impact of waqf.

The table below highlights the main shortcomings identified in practice and suggests reform-oriented solutions:

Issue (with Section / Reference)	Practical / Administrative Issue	Recommendation
Poor record-keeping and reporting by mutawallis (s.29–33 Waqf Act)	Lack of reliable data; misuse of funds not easily traceable	Introduce mandatory accounting standards, audited statements, and digital registry
Weak enforcement powers of Board over mutawallis (s.31–33 Waqf Act)	Board unable to sanction mismanagement; oversight ineffective	Give Board explicit powers to suspend/remove mutawallis; set penalties for breach
Inefficient dispute resolution (court jurisdiction only)	Disputes take years in civil courts; beneficiaries left without recourse	Create Waqf Tribunal / ADR mechanism for faster dispute settlement
No structured link with tax/charity regime (Act disconnected from Income Tax Act & CSR laws)	Missed opportunity for donors; discourages structured philanthropy	Provide tax incentives for contributions to registered waqf institutions
Lack of centralised digital waqf registry (Act silent)	Fragmented records; public cannot verify waqf assets or beneficiaries	Establish national digital waqf registry under Board supervision
Limited professional management tools (Act rooted in 1941 colonial law)	Waqf assets not leveraged; outdated rules hinder modern investment	Amend Act to allow use of Islamic finance tools (sukuk, ijara, istisna, etc.)
Limited training and support for mutawallis (Act silent)	Many mutawallis lack skills in financial management and compliance	Provide mandatory training, certification, and ongoing support mechanisms

Inefficient coordination with other authorities (tax, land registry, charities regulator)	Parallel systems create administrative bottlenecks	Formalise MoUs with relevant agencies; streamline waqf recognition and compliance
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4.0 GOVERNANCE GAPS

Beyond doctrinal and administrative issues, the Waqf Act 1941 also suffers from systemic governance and operational weaknesses. These gaps undermine both the integrity of waqf institutions and their ability to fulfil their socio-economic purpose. The lack of a modern governance framework has left Mauritius behind international standards, where robust oversight, professional capacity, and stakeholder representation are considered essential.

The table below summarises the main governance and operational shortcomings:

Issue (with Section / Reference)	Governance Gap	Recommendation
Board structure & ministerial control (Part VII Waqf Act)	Membership not representative of modern stakeholders; excessive political influence undermines independence	Redefine Board composition: include independent professionals, Shariah scholars, community reps; establish transparent nomination process; limit ministerial discretion
No Shariah supervisory mechanism (Act silent)	Compliance with Islamic principles not institutionally monitored	Create independent Shariah Advisory Council under the Board
Weak accountability of mutawallis (s.44 Waqf Act)	Board has limited enforcement power; mutawallis act unchecked	Strengthen oversight powers; introduce penalties for mismanagement
No professional criteria for mutawallis (Act silent)	Mutawallis may lack basic governance, legal, or financial competence	Introduce mandatory fit-and-proper criteria and training
No fiduciary standards for mutawallis (Act silent)	Mutawallis not bound by trustee-like duties of loyalty and prudence	Codify fiduciary duties in Act; impose personal liability for breach
Inadequate conflict of interest framework (s.51 basic provisions only)	Mutawallis or Board members may benefit personally from waqf transactions	Requires robust disclosure requirements, related-party dealing prohibitions, and enforcement mechanisms
Lack of performance KPIs & audit mechanisms (s.44 & 50)	No way to measure efficiency, growth of assets, or ensure independent scrutiny	Introduce statutory KPIs; mandate independent annual audits by certified auditors and adopt AAOIFI standards

without compliance standards)		
Transparency & stakeholder engagement (Act silent)	Community has no visibility on asset use; beneficiaries not engaged in waqf decisions	Require annual public reporting on investments; set up consultation forums and community audits
Absence of whistleblowing system (Act silent)	Mismanagement and corruption remain hidden	Establish confidential whistleblowing channels under Board oversight

5.0 LEGAL REFORM ITEMS (ACT SPECIFIC)

The Waqf Act 1941 was drafted in a colonial context and has remained largely unchanged for over eight decades. While it provided a foundation for the recognition and regulation of waqf in Mauritius, the Act omits several critical elements necessary for a modern, transparent, and Shariah-compliant framework. Based on the comparative review and the proposed draft amendments, the following legal reform items are highlighted as missing or underdeveloped in the current legislation:

(i) **Fiduciary and Professional Standards for Mutawallis**

The Act does not impose clear fiduciary duties, conflict-of-interest rules, or minimum professional standards on mutawallis. Reform is required to codify obligations of loyalty, prudence, accountability, and transparency, drawing from modern trust and foundation law.

(ii) **AML/CFT and Compliance Provisions**

The Act is silent on anti-money laundering and counter-financing of terrorism (AML/CFT) obligations. In the contemporary global regulatory environment, waqf institutions must be explicitly required to comply with national AML/CFT frameworks, including reporting obligations to the Financial Intelligence Unit.

(iii) **Shariah Supervisory Mechanism**

The Act provides no institutional mechanism to ensure ongoing Shariah compliance. A Shariah Advisory Council should be established under the Board to guide governance, approve investment strategies, and review disputes on compliance matters.

(iv) **Investment and Financial Management Tools**

The 1941 framework is restrictive and does not recognise modern Islamic finance instruments (e.g., sukuk, ijara, istisna) or structured investment strategies. Reform should explicitly allow waqf institutions to mobilise and manage resources through Shariah-compliant financial products, enabling better asset growth and alignment with development goals.

(v) Tribunal and Dispute Resolution

Currently, the Act leaves disputes to the jurisdiction of civil courts, which results in lengthy and costly proceedings. A dedicated Waqf Tribunal or alternative dispute resolution mechanism should be introduced to ensure faster, specialised adjudication.

(vi) Tax Treatment and Philanthropy Linkages

The Act does not integrate waqf with the tax and corporate social responsibility (CSR) framework. Introducing explicit tax incentives and alignment with charitable regimes would encourage structured philanthropy and position waqf as a recognised vehicle for social investment.

(vii) Cross-Border and International Waqf Recognition

The legislation is silent on the recognition of foreign waqf or cross-border structures. Reform should include provisions for registration and supervision of transnational waqf, consistent with global Islamic finance practices.

(viii) Technology and Transparency

The Act does not require modern record-keeping, digital registries, or public disclosures. Mandatory reporting, electronic filing, and a national waqf register should be considered to strengthen accountability and accessibility.

(ix) Constitutional and Fundamental Rights Alignment

Finally, reforms must ensure that the administration of waqf respects the constitutional guarantees of religion, property, and equality, while maintaining compatibility with Mauritius' international commitments.

6.0 INTERNATIONAL BEST PRACTICES TO ADAPT

Modernising the Waqf Act in Mauritius requires drawing on proven approaches that have worked elsewhere. Other jurisdictions have successfully updated their waqf frameworks to ensure better governance, integration with financial markets, and stronger alignment with social development goals. These experiences offer practical models that Mauritius can adapt rather than reinventing from scratch.

Key lessons from countries such as Malaysia, Singapore, India, Turkey, and the Gulf States show that a reformed waqf system must be transparent, professionally managed, and connected to the wider regulatory and financial ecosystem. The reforms proposed for Mauritius should therefore be benchmarked against these international practices to ensure that the new legal framework is both credible and globally competitive.

Jurisdiction	Key Practice(s)	Relevance for Mauritius
Malaysia	State Islamic Religious Councils as trustees; Shariah Advisory structures; active use of sukuk/REITs/cash-waqf; professional asset	Model for Shariah governance, professionalization, and investment-enabled waqf (sukuk, REITs, cash-waqf).

	management; centralized digital records in many states	
Indonesia	Badan Wakaf Indonesia (national body); cash-waqf linked to Islamic banks; clear public-benefit orientation; standardized certification and reporting	Blueprint for a national waqf authority, cash-waqf mobilization, and bank-linked compliance/reporting.
Turkey	General Directorate of Foundations; large-scale development (education, health, social housing); portfolio approach; restoration and productive use of assets	Demonstrates scale and portfolio management; shows how waqf can fund social infrastructure sustainably.
India	State Waqf Boards; mandatory property surveys and gazette notifications; dedicated Tribunals for faster dispute resolution	Supports asset mapping/registry, public notification, and specialized tribunals to relieve civil courts.
Pakistan	Provincial Auqaf control for religious endowments; lease/management frameworks; standardized forms; mosque administration	Offers templated leasing/management and uniform documentation (adapt with safeguards against over-centralization).
Singapore (MUIS)	Strong governance under public-law standards; audited transparency; mosque/education funding; professional endowment management	High bar for transparency, audit, and stakeholder trust; useful for digital reporting and public accountability.
United Kingdom	Charity-law framework; trustee fiduciary duties; strong conflicts regime; Charity Commission oversight; investment policy statements	Import fiduciary standards, conflicts rules, trustee training, and public reporting norms into waqf context.
UAE	Emirates-level waqf authorities; integration with Islamic finance; corporate/innovation waqf (education, healthtech); public campaigns	Illustrates modern productization (corporate/cash waqf) and public mobilization with strong AML/CFT interfaces.
Saudi Arabia	Specialized endowment entities; mega-waqf projects; codified Shariah oversight; enabling investment statutes	Shows enabling statutes for scale and professional managers under formal Shariah supervision.
Qatar	Central waqf authority; ESG-aligned social projects; clear donor engagement and reporting	Useful for donor engagement, impact reporting, and ESG/social-outcome focus.

7.0 STRATEGIC ROADMAP AND VISION FOR WAQF REFORM

The reform of waqf law in Mauritius is not only a legislative exercise but also a national strategy. To ensure lasting impact, reforms must be phased and sequenced in line with institutional capacity, political will, and stakeholder readiness. This section therefore sets out a strategic roadmap of actions alongside a forward-looking vision for the waqf sector.

The roadmap identifies immediate priorities to build credibility and compliance, medium-term measures to embed waqf into the national development agenda, and long-term aspirations to position Mauritius as a regional hub for waqf innovation and Islamic social finance.

7.1 Executive Roadmap

Short-Term (0–2 years)

- Finalise and enact urgent reforms to the Waqf Act 1941 (fiduciary standards, Shariah oversight, AML/CFT compliance, dispute resolution).
- Reconstitute the Waqf Board with a professional, multidisciplinary membership (law, finance, Shariah, community).
- Establish a digital waqf registry to enhance transparency and accountability.
- Launch nationwide training for mutawallis and administrators to professionalise the sector.

Medium-Term (2–5 years)

- Enable structured waqf investments through Islamic finance instruments (sukuk, ijara, mudaraba).
- Introduce tax incentives and CSR linkages to encourage endowments and structured philanthropy.
- Forge bilateral partnerships with Malaysia, UAE, and South Africa for cross-border recognition and best practice exchange.
- Conduct public trust and awareness campaigns to rebuild confidence in waqf as a development tool.

Long-Term (5+ years)

- Channel pooled waqf funds into flagship national projects: affordable housing, healthcare, education, green infrastructure.
- Position Mauritius as a regional hub for Islamic finance and cross-border waqf management.
- Operationalise independent Shariah advisory and audit structures to ensure compliance and accountability.
- Build resilience through integration of digital waqf, ESG-aligned investments, and global Islamic philanthropy trends.

7.2 Strategic Vision

Short-Term

- Restore public confidence through transparent governance and credible administration.
- Demonstrate Mauritius' commitment to aligning waqf with Shariah principles and international compliance norms.
- Signal to the region that Mauritius is a reforming state that honours its cultural-religious heritage while modernising.

Medium-Term

- Showcase waqf as a driver of inclusive development—scholarships, healthcare support, affordable housing, and community endowments.
- Strengthen Mauritius' position as a bridge between Africa, Asia, and the Middle East in waqf governance and Islamic finance.
- Build a professionalised ecosystem of mutawallis, auditors, Shariah advisors, and financial managers.

Long-Term

- Establish Mauritius as the regional centre of excellence for waqf innovation, attracting cross-border endowments and international investment.
- Fully integrate waqf into the country's broader development and financial architecture, aligned with SDGs and national resilience goals.
- Future-proof the framework to embrace emerging models such as digital waqf, green waqf, and ESG-linked Islamic philanthropy.

8.0 KEY QUESTIONS FOR POLICY CONSIDERATION

The reform of waqf law ultimately requires clear policy direction. While the roadmap and strategic vision set out possible trajectories, the way forward depends on a set of critical decision pathways. These involve choices on institutional design, regulatory integration, and the balance between Shariah principles, local realities, and international compliance.

The following guiding questions should therefore frame deliberations at both ministerial and stakeholder levels:

- Should Mauritius consolidate all waqf structures under a single public foundation or maintain the Board structure?
- How can the Waqf framework be integrated into the Islamic finance and offshore sector under FSC?
- Should mutawallis be registered, trained and certified as fiduciaries?
- What safeguards are needed to protect waqf property from political, financial, or community abuse?

- How can we attract international waqf investments while remaining AML/CFT and Shariah compliant?
- Is mosque governance best left to associations, or should they be harmonised under waqf governance principles?

9.0 CONCLUSION

The Waqf Act 1941, though historically significant, no longer reflects the social, economic, and Shariah realities of Mauritius today. Reform must therefore move beyond piecemeal amendments and embrace a holistic framework that is structurally modern, legally precise, and operationally accountable.

This reform report has outlined a reform agenda that positions waqf not as a static religious endowment, but as a dynamic instrument for social justice, economic empowerment, and international cooperation — provided it is anchored in Shariah compliance, sound governance, and institutional credibility.

Mauritius, with its strategic role as a financial hub in Africa and its plural legal heritage, has the opportunity to lead by example. By adopting best practices from leading jurisdictions such as Malaysia, Turkey, Saudi Arabia, and South Africa, while tailoring reforms to its own context, Mauritius can emerge as a global model for waqf governance and innovation.

The choices made now — on institutional structure, governance, financing, and cross-border engagement — will decide whether waqf continues as an underutilised asset base or evolves into a cornerstone of national development and ethical finance. The time for reform is urgent, but the opportunity is equally transformative. With clear vision and phased execution, Mauritius can make waqf a sustainable driver of social and economic resilience by 2030 and beyond.

ABOUT ILMA FOUNDATION

ILMA Foundation is a foundation registered under the laws of Mauritius (the “Foundation”).

The Foundation is a charitable foundation.

The Purpose and Object of the Foundation is to:

- i. alleviate poverty,
- ii. advance in education,
- iii. assist in the development of religion,
- iv. preserve of the environment,
- v. protect the fundamental human rights in Mauritius, in the Indian Ocean and in Africa.

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ANNEX A - INTERNATIONAL BEST PRACTICES — JURISDICTION-BY-JURISDICTION

Jurisdiction	Institutional Model	Shariah Governance	Asset / Investment Tools	Registry & Transparency	Dispute Resolution	What Mauritius Can Adapt
Malaysia	State Islamic Religious Councils (SIRCs) as trustees; federal coordination via JAKIM/BNM touchpoints	Shariah committees at SIRCs; national standards inform policy	Cash-waqf, sukuk, REITs, ijara; professional fund managers	Increasingly digital state registries; public reporting	Civil courts with specialist capacity; administrative resolution within SIRCs	Create national authority + Shariah council, enable cash-waqf & sukuk/REITs, mandate digital registry
Indonesia	Badan Wakaf Indonesia (BWI) as national body; licensed nazhir (managers)	Shariah oversight embedded via BWI standards	Cash-waqf via Islamic banks; project waqf; sukuk links	Central certification; bank-integrated reporting	Administrative first; courts as backstop	National licensing of managers, bank-linked cash-waqf rails, standardized certification
Turkey	General Directorate of Foundations (VGM); strong state stewardship	Internal Shariah review; historic fiqh practice	Large portfolio management; revenue-generating real estate; restoration funds	Consolidated inventory; public asset data	Administrative + administrative courts	Portfolio approach to grow income; asset restoration and productive reuse
India	State Waqf Boards; Central Waqf Council coordination	Religious guidance advisory; compliance via boards	Leasing frameworks; development schemes	Mandatory surveys; Gazette notifications; property IDs	Waqf Tribunals for speed; appeals to High Court	National asset survey + ID, Tribunal for waqf disputes
Pakistan	Provincial Auqaf departments; state control of certain religious endowments	Internal religious oversight	Standardized leases; limited capital-market use	Unified forms; registers maintained by provinces	Admin processes; civil courts	Templated leases & forms; guard against over-centralization

Singapore (MUIS)	MUIS as statutory board; public-law governance	Shariah committee within MUIS	Endowment-style investment policy; professional managers	High-frequency audited disclosure; online dashboards	Efficient admin review; courts rarely needed	Audit-first transparency, public dashboards, professional investment policy
United Kingdom	Charity Commission regime; Islamic trusts within charity law	External scholars advise trustees	Total-return and IPS frameworks; screened funds	Annual reports, serious incident reporting	Charity Tribunal/Courts	Fiduciary duties, conflicts regime, trustee training, IPS requirements
UAE	Emirate-level waqf authorities; innovation/corporate waqf	Formal Shariah oversight	Corporate/cash waqf, blended finance	Authority registers; campaign transparency	Admin resolution; courts as needed	Innovation waqf (corporate, thematic), blended finance with AML/CFT controls
Saudi Arabia	Specialized endowment entities; mega-waqf projects	Codified Shariah supervision	REITs, income funds; pro-manager statutes	Central platforms; donor portals	Specialized benches within judiciary	Enabling manager statutes, scale projects, donor-facing portals
Qatar	Central waqf authority; social-impact focus	Shariah board for approvals	ESG-aligned social projects; partnerships	Public reports; impact metrics	Admin resolution; courts	Impact reporting, ESG framing, donor engagement programs

ANNEX B - THE WAQF ACT 1941 (AS AMENDED)

Act 9/1941

Date in Force: 25th April 1941

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"object of the waqf" means the purpose to which the waqif declares that the profits, income or benefit of the subject of the waqf shall be devoted;

"Shiah Muslim" means a Muslim who conforms to the tenets and doctrines of the Shiah sect of Muslims;

~~"subject of the waqf" means the property dedicated by way of waqf;~~

"subject of the waqf" means any property, asset, or right dedicated as waqf, including but not limited to: (a) immovable property including land and buildings; (b) movable property including machinery, equipment, and personal property; (c) financial instruments including cash, securities, and investment products; (d) intellectual property rights including patents, trademarks, and copyrights; (e) digital assets and cryptocurrency that are Shariah-compliant; (f) business enterprises and corporate shares; (g) any other asset class approved by the Board as suitable for waqf;

"Sunni Muslim" means a Muslim who conforms to the tenets and doctrines of the Sunni sect of Muslims;

"technology platform" means an integrated digital system for waqf registration, management, and reporting approved by the Board;

"testamentary waqf" means a declaration of waqf expressed to come into effect after the death of the waqif,

~~"waqf" means the permanent dedication by a person professing the Muslim faith of any property in order that the use of, or the income accruing from, such property may be devoted to any purpose recognised by Muslim law as religious, pious or charitable;~~

"waqf administrator" means any person involved in the day-to-day management of waqf property under the direction of the mutawalli;

"waqf" means the permanent, irrevocable dedication by any person professing Islam of any movable or immovable property, including financial instruments, intellectual property, digital assets, or any combination thereof, for purposes recognized by Islamic law as religious, pious, charitable, or for the general welfare of Muslim communities or society at large;

~~"waqfnama" means the document evidencing a declaration of waqf;~~

"waqfnama" means any document, whether physical or electronic, that evidences the creation of a waqf;

"waqif" means the person making a declaration of waqf.

(2) This Act shall be interpreted in accordance with Islamic law principles while ensuring compliance with the Constitution of Mauritius and applicable legislation.

(3) Where any provision of this Act conflicts with Islamic law principles, the matter shall be referred to a panel of Islamic scholars appointed by the Board for guidance.

~~(2) This Act shall be interpreted in accordance with the principles of Muslim law.~~

2A. Digital compliance and technology integration [NEW SECTION]

(1) All waqf-related transactions, registrations, and communications may be conducted through approved digital platforms.

(2) Electronic signatures and digital documentation shall have the same legal force and effect as physical documents when they comply with:

(a) the Electronic Transactions Act;

(b) Islamic authentication principles as approved by the Board;

(c) cybersecurity standards specified by the Board.

(3) The Board shall maintain comprehensive digital records of all waqf transactions, which shall be admissible as evidence in any proceedings.

3. -

4. Scope of Act

(1) This Act shall apply to -

(a) all waqfs created by members of the Sunni Muslim community;

(b) subject to subsection (IA), all waqfs created by members of the Shiah Muslim community.

(c) any waqf created outside Mauritius that owns property in Mauritius;

(1A) Where, in any matter, the law governing waqfs created by members of the Shiah Muslim community in any way differs from the corresponding provisions of law governing waqfs created by members of the Sunni Muslim community, as set out in this Act, that matter shall be decided by the court in accordance with the Shiah Muslim law of waqf.

(2) All questions relating to waqfs dedicated by members of the Sunni or Shiah Muslim communities shall be within the jurisdiction of the court and, subject to subsection (1A), shall be decided in accordance with this Act.

(3) This Act shall be implemented in harmony with: (a) constitutional provisions regarding religious freedom; (b) financial services and anti-money laundering legislation; (c) international Islamic finance standards; (d) environmental protection and sustainable development requirements.

4A. International cooperation and recognition [NEW SECTION]

(1) The Board may enter into agreements with foreign waqf authorities for mutual recognition and cooperation.

(2) Waqfs created in foreign jurisdictions may be recognized in Mauritius subject to: (a) compliance with this Act; (b) satisfaction of anti-money laundering requirements; (c) verification of Islamic law compliance.

(3) The Board may participate in international Islamic finance organizations and adopt international best practices consistent with this Act.

PART II - DECLARATION OF WAQF

5. Provisions as to form

- (1) (a) A declaration of waqf may be made in any appropriate words which show an intention to make a dedication by way of waqf.
- (b) The use of the word waqf is neither essential for the validity of a declaration of waqf, nor conclusive to show that a dedication by way of waqf was intended to be made.
- (2) (a) (i) Where a declaration of waqf is made whether by a Sunni or Shiah Muslim, a waqfnama shall be drawn up in English or French and shall be signed or marked by the declarant in presence of at least 2 Waqf Commissioners who shall attest it after having satisfied themselves as to the identity of the declarant.
- (ii) Where the declarant is unknown to the Waqf Commissioners, his identity shall be certified by 2 witnesses known to the Waqf Commissioners.
- (b) (i) Subject to paragraph (e), the waqfnama shall be registered by, and shall remain in the custody of, the Board.
- (ii) The waqfnama shall, to all intents and purposes, have the same force and effect as if it were a notarial deed.
- (c) (i) The declaration of waqf may also be evidenced by a deed drawn up by a notary public.
- (ii) A certified copy expedition of the notarial deed shall, within one month of the drawing up of the original, be forwarded by the notary to the Board by which it shall be registered and in whose custody it shall remain.
- (iii) Electronic waqfnamas shall comply with cybersecurity and authentication standards specified by the Board.
- (d) No fee or stamp duty shall be payable in respect of the registration by the Board of the waqfnama or copy of the notarial deed expedition.
- (e) All declarations of waqf shall be registered in the Office of the Registrar-General and transcribed with the Conservator of Mortgages.
- (f) Except in the case of declarations under section 7, registration and transcription under paragraph (e) shall be exempt from duty.
- (3) A declaration of waqf not so evidenced, signed and witnessed shall be null and void.
- (4) Notice of the creation of any waqf registered with the Board shall be published by the Board in the Gazette, local Muslim Newspapers and on the Board's official website, containing the name of the waqif and particulars of the nature of the waqf property.
- (5) Public objections may be filed within 30 days of publication.

5A. Creation of waqf

(1) Where property in Mauritius is the subject of a waqf created by a Sunni Muslim or a Shiah Muslim, not subject to the jurisdiction of the court, in virtue of a waqfnama drawn up abroad, the Board may, on the application of -

- (a) the waqif;
- (b) the mutawalli or any of the mutawallis appointed for the management or administration of the waqf;
- (c) the agent of the waqif or mutawalli or of one of the mutawallis; or
- (d) any person having the management, administration, control or possession of the subject of the waqf,

register a declaration of the waqf, in accordance with subsection (2).

(2) For the purpose of subsection (1) a declaration of waqf shall be registered on production -

(a) where the waqfnama –

(i) is drawn up in English or French, of a copy of the waqfnama duly certified by the waqif or his agent or by the mutawalli or his agent or by one of the mutawallis or his agent, as the case may be;

(ii) is not drawn up either in English or in French, of a duly certified translation into English by one of the interpreters of the court, of the document or of a certified copy of it;

(b) of a written declaration setting out the particulars of the waqf drawn up in English and signed or marked by the waqif or his agent, or by the mutawalli or his agent, or by one of the mutawallis or his agent, appointed under the waqfnama, in presence of at least 2 Waqf Commissioners who shall attest it after having satisfied themselves as to the identity of the declarant or where the declarant is unknown to the Waqf Commissioners, his identity shall be certified by 2 witnesses known to the Waqf Commissioners.

(3) The copy or translation of the waqfnama mentioned in subsection (2) shall be certified by an officer of the court having jurisdiction in the country where the waqf was created as being a true copy of the original.

5B. Effect of document in respect of waqf

The certified copy of the waqfnama or the certified translation of the waqfnama or of a certified copy of it, as the case may be, together with the written declaration specified in section 5A (2), shall, on registration by the Board and subject to section 5 (2) (e), have to all intents and purposes, the same force and effect as if they were notarial deeds and shall remain in the custody of the Board.

5C. Effect of waqfnama drawn up abroad

All property the subject of a waqf registered by the Board as waqf property in virtue of any waqfnama drawn up abroad by a Sunni Muslim or a Shiah Muslim whether subject to the jurisdiction of the court or not, shall be deemed to constitute a waqf in accordance with the

prescription of the Muslim law governing waqfs, notwithstanding the fact that no waqfnama has been drawn up in accordance with this Act.

5D. Where waqf created abroad is not declared

- (1) Where any property in Mauritius is the subject of a waqf created by a Sunni Muslim or a Shiah Muslim, not subject to the jurisdiction of the court, in virtue of a waqfnama drawn up abroad, and any party who could under section SA apply for registration of such waqf fails to do so and is subject to the jurisdiction of the court, the Board may apply to the court for an order compelling such party to register the waqf.
- (2) Where within a month from the date on which the court orders a party to register a waqf under subsection (1), the party fails to comply with the order, the Board may apply to the court for an order vesting in the Board any property in Mauritius which is the subject of the waqf, and on proof of failure to comply with the order of the court, the court shall make the vesting order prayed for.
- (3) Where a vesting order is made under subsection (2), the Board shall, in respect of the property affected by such order, exercise all the powers and perform all the duties of the mutawalli appointed by the waqfnama and the mutawalli shall resume office only when the vesting order is set aside.
- (4) (a) A vesting order granted under subsection (2) shall only be set aside by the court on proof that the registration of the declaration of waqf has been made.
(b) The setting aside of the vesting order shall in no way affect anything done by the Board before the order is set aside.

5E. Anti-money laundering and due diligence [NEW SECTION]

- (1) Enhanced due diligence requirements: For all waqf registrations, the following information shall be provided: (a) complete identification and background verification of the waqif; (b) detailed source of funds documentation; (c) beneficial ownership disclosure for corporate or trust waqifs; (d) purpose and intended use of waqf property; (e) identification of all intended beneficiaries where applicable.
- (2) High-value waqf requirements: For waqfs exceeding MUR 2,000,000 in value: (a) professional valuation by certified valuers; (b) enhanced background screening including politically exposed person checks; (c) detailed business plan for income generation; (d) compliance certification from approved Islamic scholars; (e) notification to the Financial Intelligence Unit.
- (3) Ongoing monitoring: (a) Annual compliance certification for all registered waqfs; (b) Suspicious transaction reporting obligations; (c) Regular beneficial ownership updates; (d) Coordination with financial crimes authorities.

6. Waqf may be made inter vivos or by will

- (1) Notwithstanding article 920 of the Code Napoléon, a dedication by way of waqf may be made inter vivos of property of the waqif and the dedication shall not be reducible at the time of the opening of the succession of the waqif.
- (2) Subject to subsection (3), a declaration of waqf may be made by will.

- (3) (a) Where the waqf is purported to be made of property which exceeds in value that portion of the waqif's estate which may be bequeathed by will, it is valid and effective as to such portion, and void as to the excess, unless the heirs of the waqif consent to the waqf.
- (b) Where a waqf so made is for the benefit of a mosque it is -
- (i) wholly valid if the heirs of the waqif consent to the waqf; and
 - (ii) wholly void if the heirs of the waqif do not consent to the waqf.
- (c) Where a testamentary waqf is purported to be made, and any of the beneficiaries under it are the heirs of the waqif, the portion of the income to which the heirs are purported to be entitled under the waqf shall be divisible among all the heirs of the waqif in the proportion of their rights of inheritance, notwithstanding any other direction that the waqif may have given in the waqf unless, after the death of the waqif, the heirs whose rights are affected by the waqf consent to the waqf being given effect to in accordance with the directions.

7. Life interests and limited estates

- (1) Subject to subsection (3), provision may validly be made in a declaration of waqf for the benefit of a succession of persons, during their lives, or during specified periods and notwithstanding that at the time of the declaration of waqf those persons are not in being.
- (2) Subject to subsection (3), provision may in particular be made in a declaration of waqf for the maintenance and support wholly or partially of the family, children, or descendants of the waqif and, where the person creating a waqf is a Hanafi Muslim, also for the maintenance and support of the waqif during his life time, or for the payment of his debts out of the rents and profits of the property dedicated.
- (3) The ultimate benefit is in such cases expressly or impliedly reserved for the poor or for any other purpose recognized by Muslim law as a religious, pious or charitable purpose of a permanent character.
- (4) The share provided by the waqif for the benefit of any of his male children or descendants may be double the share provided by him for the benefit of any of his female children or descendants respectively.

8. Defeasible interest

A declaration of waqf may provide that a beneficiary named in it shall cease to take any benefit under it on the happening of some future event.

9. Capacity

- (1) Any Muslim who has attained the age of 18 and is of sound mind may create a waqf.
- (2) A husband may, with the concurrence of his wife, create a waqf of property belonging to the community.

- (3) Any waqf under this Act shall be invalid -
- (a) where a waqf is created or declared in such circumstances that the rights of creditors are, or may be, defeated or delayed; or
 - (b) where at the time the waqf was created the waqif was interdicted, insolvent or bankrupt.
- (4) Any person claiming that his interests are prejudicially affected by the creation or declaration of a waqf, or otherwise, may, within 3 years from the creation of the waqf, apply to the court for an order declaring the waqf to be void.

10. Intention to be given effect to

A declaration of waqf shall be construed in accordance with the intention of the waqif, and not according to the strict interpretation of any particular word.

11. References to generations

- (1) Where the declaration of waqf refers to one or 2 generations of the descendants of a specified person as being entitled to the benefit of the waqf, the benefit shall be confined to those generations.
- (2) Where 3 generations or more are referred to, the benefit shall be for the descendants in perpetuity, so long as they exist.

12. Proximity of relationship

-Where the waqf is dedicated to the nearest relatives of a named person, nearness of relationship is to be reckoned in the following order of priority, each excluding all those below them-

- (a) sons and daughters;
- (b) father and mother;
- (c) grandchildren;
- (d) grandparents;
- (e) greatgrandchildren;
- (f) greatgrandparents;
- (g) brothers;
- (h) sisters.

13. -

14. Terms of description when applicable

- (1) Unless there is anything in a declaration of waqf to show a contrary intention, where the beneficiaries are referred to or identified by some quality or description which is of a permanent nature, or which cannot be acquired again after it has once been

lost or ceased to be applicable, those persons alone are entitled to benefit under the waqf who can be identified or described in the manner referred to in the declaration at the time it was made.

- (2) Where the quality or description is such that it may be lost or cease to be applicable, all those persons are entitled to take the benefit of the waqf who can be referred to or identified in the same manner, when the produce or income accrues.

15. Interpretation of child

- (1) Subject to subsection (2), in a declaration of waqf "child of the waqif"-
- (a) means a legitimate or acknowledged child of the waqif before or after the declaration; but
 - (b) does not include grandchildren and more remote descendants.
- (2) (a) At the time of the declaration where there is no child living, but the child of a son, or other agnatic descendant is living, that child or descendant, but no person in a lower generation, shall be deemed to be a child of the waqif
- (b) Where in the circumstances described in paragraph (a) a child is born to the waqif after the declaration of waqf, that child shall become entitled to the produce of the waqf.
- (c) Where there is no descendant in the first and second generations, all those who are in the third or any lower generation shall be deemed to be children of the waqif.
- (3) (a) "Orphan" means a minor who has no father living, though the mother and grandfather are alive.
- (b) The condition of orphanage shall cease on the attainment of majority.

16. Equal and concurrent shares

- (1) Where several objects or beneficiaries are referred to in a declaration of waqf, they shall take the benefit of the waqf concurrently or simultaneously and in equal shares, unless there is anything to show an intention that they should benefit in a different proportion, or in succession to one another.
- (2) Where the beneficiaries under a waqf consist of a class of persons who are individually identified, they are entitled to the benefit of the waqf equally among themselves, and where one of them dies, his share goes to the poor.
- (3) Where a waqf is for the benefit of a person's son and his children, and the children of his children forever, so long as there are descendants, the benefit accrues to them per capita, males and females being on the same footing, the children of daughters being included.
- (4) (a) Where a declaration of waqf purports to be in favour of the children of a named person and in default of them, in favour of the poor, and some of the children die, the survivors are entitled to the whole of the profits of the waqf property.

- (b) Where the children are individually identified in the declaration, the share of each child lapses, on his death, to the poor or other ultimate charity.
- (5) Where the declaration of waqf provides that the beneficiaries should take specified shares consisting of fractions of the total income of the waqf property and -
 - (a) those fractions added together amount to more than unity, the share of each beneficiary shall abate proportionately;
 - (b) there is any remainder left after giving them their specified shares, the remainder shall be divided among each of the beneficiaries in equal shares, provided that the intention is shown to give the whole of the income of the waqf property to the said beneficiaries.

17. Lapse of share of beneficiaries

- (1) In the absence of anything showing a contrary intention, the interest of a beneficiary under a waqf lapses on his death and accrues to the benefit of the poor or other ultimate charitable object of the waqf.
- (2) Where it is provided, either expressly or impliedly, in a declaration of waqf, that the descendants of the beneficiaries under a waqf shall succeed to the respective interests of the beneficiaries, and there is nothing to show a contrary intention, the descendants succeed per stirpes and not per capita and males and females take equal shares.

PART III - NATURE, SUBJECT AND ALTERATION OF WAQF

18. Waqf must be in perpetuity

- (1) A dedication by way of waqf shall be in perpetuity.
- (2) In cases where a waqf is not expressed, or does not purport, to be limited in point of duration, it shall be presumed to be made in perpetuity, and effect will be given to it accordingly.

19. Completion of waqf

- (1) A waqf is completely created by the simple declaration of intention on the part of the waqif, and the completion of the formalities prescribed in section 5 (2).
- (2) (a) After the completion of a waqf the subject passes out of the ownership of the waqif.
- (b) Subject to sections 40 and 53, it shall not be alienated or transferred, either by the waqif or the mutawalli, nor may their heirs take it by way of inheritance.

20. Unlawful alienation of waqf set aside

Where the subject of a waqf is unlawfully alienated, any person interested in the object of the waqf may apply to the court to have the alienation set aside and effect given to the waqf.

21. Subject of waqf

The subject of waqf may consist of any property other than things which are consumed by use.

22. Waqif must own subject of waqf

The subject of waqf must be owned by the waqif at the time when the waqf is made.

23. Undivided property as subject of waqf

- (1) The subject of waqf may consist of an undivided part of property notwithstanding that the property is divisible.
- (2) Where the object of the waqf is a mosque or a tomb, an undivided part of any property cannot validly form the subject of the waqf.

24. Court to give effect to charitable object

- (1) Where a waqf is purported to be made expressing a general intention of charity, but either particularizing no objects, or particularizing objects which have failed, the property may, by an order of the court, be devoted to the poor, or to charitable objects as near as possible to those that have failed.
- (2) Making a declaration of waqf is conclusive proof for inferring a general charitable intention.

25. Objects which may not be dedicated as waqf

- (1) A declaration of waqf is void where it is made –
 - (a) for a limited period of time;
 - (b) for objects which will fail;
 - (c) subject to a contingency;
 - (d) when the subject of the waqf is not defined with certainty;
 - (e) for any object which is prohibited by Islam;
 - (f) for the repair and upkeep of a private tomb;
 - (g) a waqf made in favour of the rich alone.
- (2) Subject to subsection (1) (f), the tomb of a saint may be the object of a valid waqf.
- (3) Where the beneficiaries consist of a class of persons some of whom are poor and others rich, the benefit of the waqf property shall be applied for the poor class alone.

26. Waqf cannot be revoked or altered

- (1) (a) A waqf inter vivos cannot be revoked after it has been completed.
- (b) Where at the time of creating a waqf inter vivos the waqif reserves to himself the powers of revoking the waqf, the waqf is void.

- (2) No portion of the declaration of waqf can be altered by the waqif after the waqf has been declared, unless the power to alter has been reserved in the declaration of waqf.
- (3) A testamentary waqf may be revoked by the waqif at any time before his death.

- (4) A waqf created with a power reserved to sell the subject of the waqf and to expend its proceeds on the waqif is void.

27. Power to exchange subject of waqf

- (1) A declaration of waqf may validly empower the waqif to exchange any land forming the subject of the waqf for other land, or to sell the land and to purchase other land in exchange for it and the land so taken in exchange or purchased shall become subject of the waqf.
- (3) The waqif shall not validly exchange or sell the waqf land except in strict accordance with the terms of the declaration.

27A. Islamic Financing

- (1) Exchange authority: The waqfnama may authorize:
- (a) exchange of waqf property for equivalent or superior assets;
 - (b) sale and reinvestment in more productive property;
 - (c) participation in Islamic financing arrangements;
 - (d) entry into sukuk and other Shariah-compliant instruments.
- (2) Islamic financing participation: Waqf property may participate in:
- (a) Murabaha: cost-plus financing arrangements;
 - (b) Ijara: Islamic leasing transactions;
 - (c) Musharaka: partnership and joint venture arrangements;
 - (d) Istisna: manufacturing and construction contracts;
 - (e) Wakala: agency-based investment management;
 - (f) Sukuk: Islamic bond issuance and investment.
- (3) Approval and oversight:
- (a) Board approval required for significant transactions;
 - (b) Shariah compliance certification mandatory;
 - (c) Professional valuation and due diligence;
 - (d) Beneficiary interest protection measures;
 - (e) Regular monitoring and performance review.

PART IV - APPLICATION OF THE INCOME OF WAQF PROPERTY

28. Repairs a first charge on income

- (1) The benefit, income, or proceeds of the waqf property shall be applied for the following purposes, in the following order -
- (a) for the maintenance and repairs of the subject of the waqf,
 - (i) Modern maintenance definition: "Maintenance and repairs" includes: (a) preservation of existing asset condition and functionality; (b) necessary technological upgrades and modernization; (c) compliance with safety, environmental, and regulatory standards; (d) energy efficiency improvements and sustainability measures; (e) accessibility enhancements and universal design features; (f) cybersecurity upgrades for digital assets.
 - (b) for the specified object of the waqf,
 - (c) for that which is necessary for the general purpose of the specified objects;

(d) for the benefit of the poor.

(2) In this section, 'repairs'-

(a) means the preservation of the waqf property in the state in which it was at the time when it was dedicated; but

(b) does not include improvements in the property.

(3) Where the repairs of the subject of waqf are not made the first charge on its income or proceeds, the court may order that the income or proceeds be suspended from being applied to the objects specified in the waqfnama and that the repairs should be made from it, but neither the mutawalli nor the beneficiaries may do so without an order of the court.

(4) Prohibited uses: Waqf income shall not be used for:

(a) personal benefit of mutawalli beyond authorized remuneration;

(b) speculative investments or gambling activities;

(c) interest-based financial transactions;

(d) activities prohibited under Islamic law;

(e) political campaigns or partisan activities;

(f) environmental degradation or harmful practices.

28A. Investment and growth strategies [NEW SECTION]

(1) Productive investment mandate:

(a) Waqf income should be invested productively to maximize charitable benefit;

(b) Investment strategies must balance growth with capital preservation;

(c) Diversification across asset classes and geographical regions is encouraged;

(d) ESG principles must be integrated into all investment decisions.

(2) Approved investment categories:

(a) Islamic financial instruments: sukuk, Islamic mutual funds, takaful;

(b) Real estate development: commercial and residential property projects;

(c) Infrastructure: renewable energy, transportation, telecommunications;

(d) Technology: innovation hubs, educational technology, digital platforms;

(e) Healthcare and education: hospitals, schools, research facilities;

(f) Microfinance: small business development and poverty alleviation programs.

(3) Investment governance:

(a) Investment committee with professional expertise required for large waqfs;

(b) Regular performance monitoring and reporting;

(c) Independent professional advice for complex transactions;

(d) Shariah compliance verification for all investments.

29. Failure of some objects

(1) Where some objects for which a waqf is purported to be made fails or cannot be given effect to, the validity of the other objects of the waqf is not affected, except as provided in this section.

(2) Where a waqf is created for mixed purposes, some of which are unlawful, effect shall be given to those purposes which are lawful, and so much of the property as is dedicated for unlawful purposes shall revert to the waqif.

(3) Where in construing the terms of a declaration of waqf the terms in which the beneficiaries under a waqf or its objects are referred to in the declaration cannot apply to any existing person or object, the benefit of the waqf property shall be given to the poor, provided that if thereafter the terms apply accurately to any person or objects, he or it shall be entitled to the benefit.

30. Interest disclaimed accrues to poor

Where the beneficiaries under a waqf consist of a number of persons, and -

(a) they all disclaim their interest under the waqf, the whole of the benefit shall be divided to the poor;

(b) some of them disclaim and others accept it -

(i) where the beneficiaries are identified in the waqfnama as a class, under a general description, which applies to those who have accepted, they shall take the whole of the benefit;

(ii) where the beneficiaries are named or otherwise specifically identified in the waqfnama, the share in the benefit of those who disclaim must be distributed among the poor.

PART V - APPOINTMENT OF MUTAWALLI AND MANAGEMENT OF WAQF PROPERTY

31. Comprehensive mutawalli appointment framework~~Provision for appointment of mutawalli~~

~~—The waqif may—~~

~~(a) —provide in the declaration of waqf for the appointment of—~~

~~(i) —a mutawalli to act as manager or administrator of the waqf;—~~

~~(ii) —a successor to the mutawalli; and~~

~~(b) —specify—~~

~~(i) —the conditions on which;—~~

~~(ii) —the manner in which;—~~

~~(iii) the period for which; and (iv) the person by whom,—~~

~~the mutawalli and his successor may be appointed.~~

(1) Appointment authority and procedures: The waqif may specify in the waqfnama: (a) Primary appointment: designation of initial mutawalli with specific qualifications;

(b) Succession planning: procedures for appointing successive mutawallis;

(c) Selection criteria: professional qualifications, experience, and competency requirements;

- (d) Term limits: duration of appointment and reappointment procedures;
- (e) Performance standards: measurable objectives and accountability frameworks;
- (f) Removal conditions: specific grounds and procedures for removal.

(2) Default appointment procedures: Where no appointment provision exists:

- (a) the waqif retains appointment authority during lifetime;
- (b) upon waqif's death, properly authorized executors may appoint;
- (c) the Board may make interim appointments pending permanent appointment;
- (d) the court may appoint where other mechanisms fail.

(3) Emergency and interim appointments:

- (a) Board authority to make temporary appointments during emergencies;
- (b) Maximum 90-day terms for emergency appointments;
- (c) Full appointment procedures must be completed during interim period;
- (d) Interim mutawallis have limited authority for routine operations only.

32. Persons to be appointed as mutawalli

- (1) A mutawalli shall be appointed for the management or administration of every waqf.
- (2) A mutawalli may do all acts which are reasonable and proper for the protection of the waqf property and for the management or administration of the waqf property.
- (3) Subject to subsections (4) and (5) -
 - (a) any person appointed to be mutawalli by the founder of the waqf, including a female or a non-Muslim;
 - (b) the founder of the waqf himself;
 - (c) the children or descendants of the founder of the waqf,
may become mutawallis of a waqf.
- (4) Where the mutawalli has to perform religious or spiritual functions which cannot be performed by a female, a female may not be appointed as mutawalli.
- (5) Where a person of unsound mind is purported to be appointed as a mutawalli his appointment is void.
- (6) Where the office of mutawalli devolves upon a person who is a minor, the court may appoint another mutawalli to act in his place during his minority.

(7) Notwithstanding subsection (3) above the mutawalli must possess:

- (a) Education: minimum bachelor's degree or equivalent professional experience (minimum 10 years in relevant field);
- (b) Professional certification: Islamic finance, nonprofit management, or related field certification;
- (c) Background verification: clean criminal record and financial integrity check;
- (d) Competency assessment: demonstrated knowledge of Islamic law, financial management, and governance;

- (e) Language proficiency: adequate communication skills in languages relevant to beneficiary community;
- (f) Technology literacy: ability to use modern management and reporting systems.

- (8) Prohibited appointments: The following persons cannot serve as mutawalli:
 - (a) persons of unsound mind or under legal incapacity;
 - (b) undischarged bankrupts or persons with compromised financial integrity;
 - (c) persons convicted of fraud, embezzlement, or financial crimes;
 - (d) persons with conflicts of interest that cannot be adequately managed;
 - (e) persons prohibited from serving as directors under corporate law;
 - (f) persons without necessary professional qualifications or experience.

- (9) Continuing education requirements:
 - (a) Minimum 20 hours annual professional development;
 - (b) Islamic finance and waqf management training updates;
 - (c) Corporate governance and compliance training;
 - (d) Technology and digital management skills development;
 - (e) Leadership and stakeholder engagement training.

32A. Corporate governance and oversight structures [NEW SECTION]

(1) Governance framework for large waqfs: Waqfs with assets exceeding MUR 10,000,000 shall establish:

- (a) Board of Trustees: minimum 5 members including independent directors;
- (b) Audit Committee: independent financial oversight and risk management;
- (c) Investment Committee: professional investment management and strategy;
- (d) Beneficiary Committee: stakeholder representation and feedback;
- (e) Shariah Advisory Panel: Islamic law compliance and guidance.

(2) Board composition requirements:

- (a) Majority independent members without conflicts of interest;
- (b) Professional diversity including finance, law, Islamic studies, and relevant sectors;
- (c) Gender balance with minimum one-third representation for each gender;
- (d) Community representation reflecting beneficiary demographics;
- (e) Term limits of maximum 6 years with staggered rotation.

(3) Governance policies and procedures:

- (a) Written code of conduct and ethics for all fiduciaries;
- (b) Conflict of interest policies with disclosure and recusal procedures;
- (c) Risk management framework with regular assessment and mitigation;
- (d) Whistleblower protection and internal reporting mechanisms;
- (e) Succession planning for key leadership positions.

33. Succession and appointment procedures~~Who may appoint successor to mutawalli~~

~~(1) In the absence of any express provision in the declaration of waqf for the appointment of successive mutawallis –~~

- ~~(a) the waqif is entitled to make the appointment;~~
- ~~(b) after the death of the waqif, the executor or the survivor of several executors of the waqif is so entitled;~~
- ~~(c) on the death of the surviving executor the court may appoint a mutawalli;~~

~~(d) subject to paragraphs (a) to (c), the mutawalli may appoint a successor to himself, and~~

~~(e) the executor of the last mutawalli, as his legal representative, may administer the waqf property after his death in the absence of appointment by a competent authority.~~

~~(2) An application for the appointment of a mutawalli shall be instituted in conformity with section 53.~~

(1) Structured succession planning:

(a) Primary succession: as specified in waqfnama with detailed procedures;

(b) Secondary succession: Board appointment upon failure of primary mechanism;

(c) Court intervention: final resort when other mechanisms inadequate;

(d) Interim management: Board authority to maintain operations during transitions.

(2) Appointment application procedures:

(a) Written application with complete qualification documentation;

(b) Professional references and background verification;

(c) Proposed management plan and performance objectives;

(d) Stakeholder consultation and feedback opportunities;

(e) Public notice and objection periods for significant appointments.

(3) Performance-based appointment:

(a) Clear performance metrics and accountability frameworks;

(b) Regular evaluation against established objectives;

(c) Professional development and support resources;

(d) Recognition and incentive systems for excellence;

(e) Corrective action procedures for underperformance.

34. Removal or resignation of mutawalli

(1) (a) Where the Board considers that a person performing the functions of mutawalli is unfit to perform such functions, the Board may remove such person from the office of mutawalli and appoint another person in his place.

(b) Any person removed from the office of mutawalli under paragraph (a) may, within 21 days of the notification to him of the decision of the Board, appeal from the decision to the District Court of Port Louis in the exercise of its civil jurisdiction.

(c) An appeal by any person under paragraph (b) or by the Board, as the case may be, shall lie to the Supreme Court from the decision of the District Court within 21 days of the decision.

(2) A mutawalli once appointed cannot be removed by the waqif unless in the waqfnama he has expressly reserved that power to himself.

(3) A mutawalli cannot discharge himself from his office without the permission of the waqif, the Board or the court.

- (4) Where a mutawalli has been removed from his office by the waqif in accordance with a provision in the waqfnama to that effect, or has resigned his functions with the permission of the Board, the Board may appoint a person to fill the office of mutawalli until the vacancy is filled by a substantive appointment.

Amended by [\[Act No. 29 of 1992\]](#)

35. -

36. Right to receive remuneration

- (1) (a) The declaration of waqf may validly authorise the mutawalli appointed by the waqif, and each succeeding mutawalli, to receive the remuneration specified in it.
- (b) In the absence of anything to the contrary, the remuneration specified in the declaration of waqf shall only be payable to the first mutawalli, and the succeeding mutawallis are not entitled to it in the absence of an order of the court.
- (2) (a) Subject to paragraph (b), the mutawalli may take from the income of the waqf such remuneration as the waqif may have authorised him to receive for administering the waqf.
- (b) The mutawalli shall never acquire such an interest in the waqf property as to make it capable of being attached and sold in execution of a judgment against him.
- (3) Where no provision is made in the declaration of waqf for the remuneration of the mutawalli, the court may, upon an application being made to that effect, fix the remuneration which he may authorise the mutawalli to receive.

37. Quantum of remuneration

- (1) The remuneration to which a mutawalli is entitled shall not exceed one tenth of the income where the mutawalli has no beneficial interest in the subject of the waqf.
- (2) Where, after the religious or charitable objects of the waqf have been and continued to be duly maintained, and an application is made to the court by the mutawalli for a grant of higher remuneration the court may, where it is satisfied that there is a sufficient surplus left, and upon a consideration of the nature of the waqf, if it is of opinion that higher remuneration would be just and proper, grant such higher remuneration as it thinks fit.

38. Employment of agents

- (1) The mutawalli may employ agents for the administration of the waqf, where he is empowered to do so by the declaration of waqf or where it is necessary, or in accordance with the usual course of business so to do.
- (2) The authority of the agent or manager so appointed ceases on the death or removal of the mutawalli so appointing him.

[\(3\) Advisory services: consultation with experts in relevant fields.](#)

(4) Technology services: implementation of modern management and reporting systems.

(5) Training and development: continuous capacity building for management team.

38A. Islamic financing and development funding ~~Borrowing with authorisation of Board~~

~~(1) Subject to subsection (2), where a mutawalli has been authorised in the declaration of waqf to borrow money on mortgage or without mortgage, or to sell or exchange waqf property, he shall only borrow money, or sell or exchange the waqf, after obtaining the authorisation of the Board.~~

~~(2) The amount of any loan or mortgage or the proceeds of any sale of waqf property shall be deposited in the name of the waqf at a bank designated by the Board and shall not be withdrawn in whole or in part except with the written authorisation of the Board.~~

(1) Authorized financing arrangements: With proper authorization, mutawallis may engage in:

(a) Murabaha financing: for property development and equipment acquisition;

(b) Ijara arrangements: for lease-based financing and equipment use;

(c) Musharaka partnerships: for joint ventures and collaborative projects;

(d) Istisna contracts: for construction and manufacturing projects;

(e) Sukuk issuance: for large-scale development financing;

(f) Wakala management: for professional investment management.

(2) Authorization requirements:

(a) Board approval: required for all financing arrangements exceeding specified thresholds;

(b) Shariah compliance: certification by qualified Islamic scholars;

(c) Financial analysis: professional assessment of viability and risk;

(d) Legal review: compliance with all applicable laws and regulations;

(e) Stakeholder consultation: input from beneficiaries and community representatives.

(3) Risk management and oversight:

(a) Comprehensive risk assessment and mitigation strategies;

(b) Regular monitoring and performance evaluation;

(c) Default and workout procedures for troubled arrangements;

(d) Insurance and protection mechanisms where Shariah-compliant;

(e) Reporting and transparency requirements for all financing activities.

39. Borrowing with permission of court

(1) In the absence of any express provision to that effect in the declaration of waqf, the mutawalli shall not borrow money for any purpose, or sell or exchange the waqf property, except with the authorisation of the court in accordance to section 38A.

(2) (a) The court may, upon an application being made in that behalf by the mutawalli, authorise him to borrow money and mortgage the waqf property where it is in the interest of the waqf to do so.

(b) The court may confirm, with retrospective effect, a mortgage made by the

mutawalli without the sanction of the court, where the court is satisfied that the mortgage was of urgent necessity and was properly made in the circumstances.

(3) The court may order the sale or exchange of any waqf property when satisfied that it has become unfit for the objects of the waqf.

(4) Where any person, other than the mutawalli, who is in any way concerned in the waqf property, is desirous of obtaining an order for the sale or exchange of the waqf property or an order authorising a loan on mortgage or without mortgage, he shall proceed in accordance with section 53.

40. Breach of trust and enforcement~~Breach of trust~~

~~Any mutawalli who contravenes section 38A or 39 shall commit a breach of trust for which he may be removed by order of the court.~~

(1) Expanded breach of trust definitions: Breach of trust includes:

- (a) Financial misconduct: unauthorized transactions, misappropriation, or financial mismanagement;
- (b) Conflicts of interest: self-dealing or benefiting improperly from waqf position;
- (c) Compliance failures: violation of Islamic law, legal requirements, or waqf terms;
- (d) Performance failures: persistent inability to meet established objectives;
- (e) Disclosure violations: failure to provide required information or reports;
- (f) Technology and cybersecurity breaches: inadequate protection of digital assets and data.

(2) Enforcement mechanisms:

- (a) Immediate suspension: during investigation of serious allegations;
- (b) Asset freezing: preventing further damage during proceedings;
- (c) Financial recovery: restitution of misappropriated funds with interest;
- (d) Removal and disqualification: permanent prohibition from waqf service;
- (e) Criminal referral: coordination with law enforcement for serious violations.

(3) Prevention and monitoring:

- (a) Regular audit and compliance monitoring systems;
- (b) Whistleblower protection and anonymous reporting mechanisms;
- (c) Early warning systems for identifying potential problems;
- (d) Professional development and ethics training;
- (e) Peer review and accountability partnerships.

41. Power to grant lease for 3 or 9 years

(1) Where the waqf property consists of a house dedicated to the poor or other charitable object, the mutawalli may validly grant a lease thereof for 3 years and where it consists of land, he may validly grant a lease for 9 years, the lease not being determined by his death.

(2) Where -

- (a) the mutawalli purports to grant a lease for a longer term than of 3 years or 9 years respectively, the lease is voidable;
- (b) it is necessary for the purpose of the waqf, the court may authorise a lease to be made for any longer term, notwithstanding that the declaration of waqf

expressly provides that the lease shall not be made for a longer term than a term specified in it.

- (3) Except as provided in the declaration of waqf, no person may occupy the waqf property without paying a reasonable rent for it, and if the mutawalli purports to allow any person so to occupy the waqf property, reasonable rent will nevertheless become due and payable by the person for occupation of the property.

42. Erection of buildings

The mutawalli may erect buildings on the waqf property, or cultivate lands appertaining to the waqf, if it is beneficial to the objects of the waqf so to do.

43. Provision in waqfnama no longer applicable

Where the existing conditions relating to the appointment of a successor to the mutawalli or to the administration of the waqf are no longer applicable owing to the altered circumstances of the waqf property, or of society, or of the position of the parties, and persons are actually in the administration of the waqf property, by the tacit consent of the beneficiaries, such persons, if acting without dishonesty and without improper dealings with the funds of the waqf property, shall not be held responsible for mere errors of judgment in which the beneficiaries have acquiesced but they are answerable for money actually received, and for defalcations which they would have discovered but for their default or neglect.

44. Mutawalli to file annual audited accounts

- (1) Every mutawalli of a waqf shall —
- (a) prepare once every year and in any case not later than 1 March, a true statement in English of the accounts of the waqf property in respect of the preceding year;
 - (b) cause such statement of accounts to be audited by an auditor approved by the Board in respect of such period;
 - (c) submit a certified copy of such audited accounts to the Board not later than 1 April of each year.
- (2) Any mutawalli who fails to comply with subsection (1) or who furnishes any statement of accounts which he knows or has reason to believe to be false, misleading or untrue in any material particular, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500 rupees.
- (4) Any such offences shall be within the jurisdiction of a District Magistrate.

44A. Compulsory registration of waqf property

- (1) Any mutawalli or any person having the administration, control or possession of waqf property not registered with the Board shall cause such waqf property to be so registered within one month of his assuming the functions of mutawalli or the administration, control or possession of such waqf property.
- (2) Any person bound to register waqf property under subsection (1) who fails to do so without a valid excuse shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500 rupees or to imprisonment for a term not exceeding 6

months.

- (3) The validity of any excuse advanced by a person prosecuted for the offence provided under this section shall be a question for the trial court.

44B. Mutawalli anti-money laundering obligations

(1) Every mutawalli shall:

- (a) implement Anti-Bribery, Corruption, and Fraud policies as required by the Financial Crimes Commission Act 2023;
- (b) report suspicious activities to the Board and FIU;
- (c) maintain adequate financial records for audit and investigation;
- (d) cooperate with law enforcement investigations.

(2) Mutawallis managing waqf property valued over Rs 5,000,000 shall:

- (a) conduct annual AML/CFT risk assessments;
- (b) implement customer due diligence procedures for major transactions;
- (c) maintain transaction monitoring systems.

(3) Failure to comply with subsection (1) constitutes breach of trust under section 40.

PART VI - ADMINISTRATION OF MOSQUES AND ASSOCIATED WAQF INSTITUTIONS **SPECIAL PROVISIONS RELATING TO MOSQUES**

45. Mosque property must be divided off

- (1) Where a person erects or designates a building for the purpose of dedicating it as a mosque, the waqf is not completed by such erection or designation and the ownership of such person in the land and building does not cease, until he has:
- a) ~~divided it off from the rest of his property in accordance with the customs and practices of the relevant Islamic juridical school~~
 - b) ~~and~~ provided a means of access thereto
 - a)c) ~~and~~ either permits congregational public prayers to be conducted in it according to Islamic law, or delivers possession of the mosque to a mutawalli.
- to be said in it, or delivers possession of the mosque to a mutawalli.
- (2) The requirements in subsection (1) shall be interpreted in accordance with the religious practices and customs of the Islamic community to which the waqf belongs.
- (3) Where there is a dispute regarding the completion requirements under subsection (1), the matter may be referred to a panel of Islamic scholars appointed by the Board for determination.

45A. Community consultation and notification [NEW SECTION]

- (1) Before dedicating property as a mosque waqf, the waqif should notify the local Muslim community and allow for consultation regarding the proposed dedication.
- (2) The notification under subsection (1) shall be by:
 - (a) publication in a local newspaper circulating in the area;
 - (b) posting notice at existing mosques in the vicinity; or
 - (c) such other method as may be appropriate to reach the affected community.
- (3) The consultation period shall be not less than 30 days from the date of notification.
- (4) Nothing in this section shall prevent or delay the dedication of waqf property, and failure to comply with this section shall not invalidate a waqf.

46. Waqif cannot benefit under waqf for mosque

(1) Where the object of a waqf is a mosque, the waqif cannot reserve any benefit to himself under the waqf and a waqf with any such reservation is void.

(2) Subsection (1) shall not prevent:

(a) the appointment of the waqif or members of his family as mutawalli;

(b) reasonable remuneration for services actually rendered to the mosque;

(c) the waqif's participation in religious services conducted at the mosque on the same basis as other members of the community;

(3) Any benefits under subsection (2) must be:

(a) specifically provided for in the waqfnama;

(b) reasonable and proportionate to services rendered or customary practices;

and

(c) in accordance with Islamic law principles governing mosque administration.

47. Provision for poor not necessary

Where the object of the waqf is a mosque

(a) ~~the declaration of waqf need not contain any provision as to any ultimate dedication to the poor;~~

(b) provision may be made for expenses connected with the use and upkeep of the mosque as a place of worship.

(c) provision may be made for religious education and community services conducted at or through the mosque.

48. Provision for poor on endowment for mosque

(1) Property may be dedicated by way of waqf for supplying an existing mosque with its necessary expenses and -

(a) with a provision that where the mosque is not in need of the expenses, the income of the waqf property should be expended on the poor; or

(b) with provisions for the benefit of objects which must in time cease, and the lapse of which will leave the whole benefit available for the benefit of the mosque.

(2) Where the income of a mosque waqf exceeds the reasonable needs of the mosque, the excess may be applied to:

(a) other mosques in the area requiring support;

(b) Islamic education and community welfare programs;

(c) the poor and needy in the local Muslim community;

(d) such other charitable purposes as are consistent with Islamic law and the original waqf declaration.

48A. Mosque administration and governance [NEW SECTION]

(1) Every mosque waqf shall have a management committee consisting of:

(a) the mutawalli or his representative as chairperson;

(b) the imam or chief religious functionary;

(c) not less than three and not more than seven representatives of the local Muslim community served by the mosque.

(2) The management committee shall:

(a) assist the mutawalli in the administration of the mosque waqf;

(b) ensure that religious services are conducted in accordance with Islamic law;

- (c) promote community participation in mosque activities;
- (d) advise on the allocation of waqf income for mosque expenses and charitable purposes.
- (3) Members of the management committee other than the mutawalli and imam shall be elected by the regular worshippers of the mosque for terms of two years.
- (4) The management committee shall meet at least quarterly and maintain minutes of its proceedings.
- (5) Notwithstanding anything above, if the mosque has a registered association under the Registrar of Associations, seven members from the said association shall be part of the waqf management committee, and in such case:
 - (a) the composition under subsection (1)(c) shall be modified to accommodate the association representatives;
 - (b) the association representatives shall be elected or appointed in accordance with the constitution of the registered association;
 - (c) the total membership of the management committee shall not exceed twelve members including the mutawalli and imam;
 - (d) the registered association shall ensure its representatives possess adequate knowledge of waqf administration and Islamic law principles.

48B. Dispute resolution for mosque matters [NEW SECTION]

- (1) Disputes regarding mosque administration, religious practices, or community access shall first be referred to mediation by Islamic scholars appointed by the Board.
- (2) If mediation under subsection (1) fails to resolve the dispute within 60 days, the matter may be referred to the court under section 53.
- (3) In any proceedings under this section, the court shall give due consideration to:
 - (a) Islamic law principles governing mosque administration;
 - (b) the customs and practices of the local Muslim community;
 - (c) the need to preserve religious freedom and community harmony;
 - (d) the charitable purposes of the waqf.

PART VII - WAQF COMMISSION: STRUCTURE, DUTIES AND GOVERNANCE BOARD OF WAQF COMMISSIONERS

49. Establishment of Board

- ~~(1) (a) The President may set up a Board of Waqf Commissioners, consisting of not less than 4 persons of the Muslim faith as he thinks fit to appoint.~~
- ~~(b) The President may appoint a Chairman of the Board, who shall be a senior Government official, or a person employed in State's service, and who shall be paid by the Board such fee for his services as the President may direct.~~
- ~~(c) Such Chairman may be a person not belonging to the Muslim faith.~~
- (1) The President may establish a Board of Waqf Commissioners consisting of:
 - (a) a Chairman who shall be a person of the Muslim faith with not less than 10 years' experience in law, Islamic studies, or public administration;
 - (b) not less than 6 and not more than 10 other members, all of whom shall be persons of the Muslim faith.

~~(2) — The members of the Board shall retire on 31 December of each year, but shall all be eligible for reappointment by the President for the next ensuing period of 12 months.~~

(2) In appointing members under subsection (1), the President shall:

(a) consult with recognized Muslim organizations and community leaders;

(b) ensure representation from different regions of Mauritius;

(c) consider the need for expertise in Islamic law, finance, property management, and community development;

~~(3) — The President may remove any Commissioner, including the Chairman, at any time after appointment.~~

~~(4) — Where a vacancy occurs in the membership of the Board by reason of the death, resignation, or removal from office, of the Chairman or any member of the Board, the President may appoint a successor for the remainder of the period of 12 months.~~

~~(5) — Three members shall constitute a quorum at meetings of the Board, in addition to the Chairman, who shall have a casting vote.~~

~~(6) (a) — The Board shall be a body corporate.~~

~~(b) — Service of process on the Chairman of the Board shall be deemed to be service on the Board.~~

(3) Members of the Board shall:

(a) serve for terms of 3 years and may be reappointed for one additional term;

(b) retire on a staggered basis with one-third retiring each year;

(c) possess relevant qualifications in Islamic law, finance, law, public administration, or community development.

(4) The President may remove a member of the Board only:

(a) for incapacity, bankruptcy, conviction of a criminal offense involving dishonesty, or serious breach of duty; and

(b) after giving the member 30 days' written notice and an opportunity to be heard.

(5) Where a vacancy occurs in the membership of the Board, the President may appoint a successor for the remainder of the term in accordance with the requirements of this section.

(6) Not less than five members including the Chairman shall constitute a quorum at meetings of the Board.

- ~~(7) (a) — Subject to paragraph (b), the Board may levy yearly on all waqf properties registered with the Board such sum of money, not exceeding 3 per cent of the gross total income of each waqf property, as the Board may decide for the purpose of defraying any expenses which may be incurred by the Board in the execution of its duties.~~
- ~~(b) — With respect to any waqf which is also registered as a registered association, any sum payable to the Registrar of Associations shall be deducted from the contribution payable to the Board under paragraph (a).~~
- ~~(c) — Every decision of the Board under paragraph (a) shall be taken on or before 15 December in the year preceding that in respect of which the levy shall be payable, and shall be published in the Gazette.~~
- ~~(8) — The President may make such regulations as he thinks necessary for the execution of the duties of the Board.~~

Amended by [\[Act No. 48 of 1991\]](#)

49A. Professional Advisory Council [NEW SECTION]

- (1) The Board may establish a Professional Advisory Council consisting of:
- (a) Islamic law scholars;
 - (b) financial and investment experts;
 - (c) property and estate management professionals;
 - (d) representatives from related charitable and community organizations;
 - (e) such other experts as the Board may determine.
- (2) Members of the Professional Advisory Council:
- (a) may be Muslims or non-Muslims;
 - (b) shall serve in an advisory capacity without voting rights on Board decisions;
 - (c) may receive reasonable compensation for their services;
 - (d) shall serve for terms of 2 years renewable once.
- (3) The Professional Advisory Council shall provide expert advice on:
- (a) investment strategies and financial management;
 - (b) property development and management;
 - (c) legal and regulatory compliance;
 - (d) best practices in charitable administration;
 - (e) such other matters as the Board may refer to them.

49B. Corporate status and powers [NEW SECTION]

- (1) The Board shall be a body corporate with perpetual succession and a common seal.
- (2) The Board may:
- (a) acquire, hold, and dispose of property for the purposes of this Act;
 - (b) enter into contracts and other legal arrangements;
 - (c) sue and be sued in its corporate name;
 - (d) establish subsidiaries or enter into partnerships for the purpose of developing waqf property;
 - (e) enter into Islamic financing arrangements in accordance with section 50C.
- (3) Service of process on the Chairman or Secretary of the Board shall be deemed to be service on the Board.

50. Powers of the Board

- ~~(1) — The Board may, without prejudice to any of the powers vested in the court by this Act—~~
- ~~(a) — supervise generally the administration of any waqf property by its mutawalli, in accordance with the terms of the waqfnama, and for that purpose have access to the waqf property;~~
 - ~~(b) — supervise the finances of all waqf property, require the submission each year of properly audited accounts relating to every waqf, and submit to the President an annual report upon the financial position of all waqf properties;~~
 - ~~(c) — keep a register of all waqfs;~~
 - ~~(d) — call for all information, whether documentary, or oral, of which they may be in need, and summon by registered letter any person before them, including the mutawalli, for this purpose, and examine witnesses on oath;~~
 - ~~(e) — apply to the court in any of the cases provided for in section 53.~~
- ~~(2) — Any person who fails to comply with any requirements of the Board under subsection (1) (a), (b) and (d) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500 rupees.~~
- ~~(3) — Any such offences shall be within the jurisdiction of a District Magistrate.~~

Amended by Act No. 48 of 1991

(1) The Board shall:

- (a) supervise generally the administration of waqf property by mutawallis in accordance with the terms of waqfnamas and the principles of Islamic law;
- (b) maintain a comprehensive register of all waqfs including digital records and mapping;
- (c) promote the development and productive use of waqf property;
- (d) provide guidance and training to mutawallis and waqf administrators;
- (e) investigate complaints and alleged breaches of trust;
- (f) submit an annual report to the National Assembly on the administration of waqfs.

(2) For the purposes of subsection (1), the Board may:

- (a) require the submission of annual audited accounts and other information from mutawallis;
- (b) inspect waqf property and examine documents during reasonable hours with 48 hours' prior notice except in cases of suspected fraud or mismanagement;
- (c) summon any person to appear before the Board and give evidence on oath, provided that:
 - (i) the person is given at least 14 days' written notice;
 - (ii) the person has the right to be represented by counsel;
 - (iii) the examination is conducted according to natural justice principles;
- (d) engage auditors, valuers, and other professional experts;
- (e) mediate disputes between mutawallis and beneficiaries.

(3) The Board shall establish and maintain:

- (a) professional standards for waqf administration;
- (b) training and certification programs for mutawallis;
- (c) standard forms and procedures for waqf registration and administration;
- (d) a public information service regarding waqf laws and procedures.

50A. Financial supervision and investment oversight [NEW SECTION]

- (1) The Board shall establish investment guidelines for waqf property that:
 - (a) comply with Islamic law principles;
 - (b) ensure prudent management and diversification of investments;
 - (c) maximize returns while preserving capital;
 - (d) avoid investments in activities prohibited by Islamic law.
- (2) Waqf property with annual income exceeding Rs 1,000,000 shall:
 - (a) prepare annual audited financial statements;
 - (b) submit quarterly financial reports to the Board;
 - (c) comply with investment guidelines established under subsection (1);
 - (d) maintain proper accounting records and internal controls.
- (3) The Board may require smaller waqfs to comply with scaled reporting requirements based on their size and complexity.

50B. Capacity building and development [NEW SECTION]

- (1) The Board shall establish programs for:
 - (a) training mutawallis in modern management practices;
 - (b) educating the Muslim community about waqf laws and benefits;
 - (c) promoting productive use of waqf property;
 - (d) facilitating partnerships between waqfs and development organizations.
- (2) The Board may provide financial and technical assistance to waqfs for:
 - (a) property development and improvement projects;
 - (b) establishment of income-generating activities;
 - (c) legal and administrative compliance;
 - (d) capacity building and institutional development.
- (3) Assistance under subsection (2) may be provided through grants, loans, or technical services subject to terms and conditions determined by the Board.

50C. Islamic financing and development funding [NEW SECTION]

- (1) The Board may enter into Islamic financing arrangements for waqf development, including:
 - (a) **Murabaha** (cost-plus financing) for property purchase or development;
 - (b) **Ijara** (Islamic leasing) for equipment or facility use;
 - (c) **Musharaka** (partnership) arrangements for development projects;
 - (d) **Istisna** (manufacturing contracts) for construction projects;
- (2) All financing arrangements under subsection (1) must:
 - (a) comply with Islamic law principles and avoid riba (interest);
 - (b) be approved by a two-thirds majority of the Board;
 - (c) be certified as Shariah-compliant by recognized Islamic scholars;
 - (d) serve purposes that benefit waqf administration or charitable objectives.
- (3) The Board may provide guarantees for Islamic financing through:
 - (a) future income streams from Board-owned property (not waqf property);
 - (b) Board's own assets and reserves;
 - (c) performance guarantees for development projects;
 - (d) such other Islamic-compliant arrangements as may be appropriate.
- (4) Waqf property itself shall never be used as security or collateral for any financing arrangement.
- (5) The Board shall maintain a panel of Islamic finance experts to:
 - (a) review all proposed financing arrangements;

- (b) ensure Shariah compliance;
- (c) provide ongoing monitoring of financial contracts.

50D. Board compliance with financial crimes legislation [NEW SECTION]

(1) The Board shall:

- (a) cooperate fully with the Financial Intelligence Unit, Financial Crimes Commission, and other financial crime agencies;
- (b) report suspicious transactions involving waqf property in accordance with the Financial Intelligence and Anti-Money Laundering Act;
- (c) maintain records in accordance with applicable AML/CFT requirements;
- implement adequate anti-money laundering and counter-terrorist financing policies and procedures.

(2) The Board shall file Suspicious Transaction Reports where:

- (a) anti-money laundering and counter-terrorist financing requirements;
 - (b) identification of suspicious transactions and activities;
 - (c) reporting obligations under financial crimes legislation;
 - (d) sanctions and asset freezing requirem
- (a) unusual or suspicious financial activity is detected in relation to waqf property;
- (b) attempts are made to use waqf structures for money laundering or terrorist financing;
 - (c) transactions appear inconsistent with known waqf charitable purposes;
 - (d) required by the Financial Intelligence Unit or other competent authorities.

(3) Board members and staff shall receive regular training on:

- (a) anti-money laundering and counter-terrorist financing requirements;
- (b) identification of suspicious transactions and activities;
- (c) reporting obligations under financial crimes legislation;
- (d) sanctions and asset freezing requirements.

(4) The Board shall conduct enhanced due diligence on:

- (a) high-value waqf creations exceeding Rs 2,000,000;
- (b) waqfs involving politically exposed persons as defined under financial crimes legislation;
- (c) cross-border waqf transactions and international transfers;
- (d) waqfs where the source of funds cannot be readily verified.

(5) The Board shall implement and maintain:

- (a) customer due diligence procedures for waqf registration and significant transactions;
- (b) transaction monitoring systems appropriate to the nature and size of waqf operations;
- (c) record-keeping systems compliant with financial crimes legislation;
- (d) internal controls and compliance monitoring mechanisms.

50E. Information sharing with financial crime agencies [NEW SECTION]

(1) The Board shall share information with the Financial Intelligence Unit, Financial Crimes Commission, and other competent authorities when:

- (a) required by law or court order;
- (b) necessary for financial crime investigations;
- (c) requested for national security purposes;
- (d) required for compliance with international sanctions or asset freezing measures.

(2) Information sharing under subsection (1) shall be subject to:

- (a) appropriate confidentiality protections and data security measures;
- (b) compliance with data protection legislation;
- (c) safeguards for religious freedom and legitimate privacy expectations;
- (d) procedures ensuring information is used only for lawful purposes.

(3) The Board may enter into Memoranda of Understanding with:

- (a) the Financial Intelligence Unit for anti-money laundering and counter-terrorist financing

cooperation;

(b) the Financial Crimes Commission for asset recovery coordination and financial crime prevention;

(c) international waqf regulatory bodies for cross-border supervision and information exchange;

(d) other regulatory authorities for matters of mutual concern and cooperation.

(4) The Board shall establish internal procedures for:

(a) responding to information requests from competent authorities;

(b) protecting confidential information and ensuring appropriate use;

(c) coordinating with law enforcement and regulatory agencies;

(d) maintaining records of information sharing activities for audit and oversight purposes.

(5) Nothing in this section shall require the Board to disclose information that would:

(a) compromise ongoing investigations or legal proceedings;

(b) violate attorney-client privilege or other legally protected communications;

(c) unreasonably interfere with religious practices or violate constitutional rights;

(d) exceed the scope of lawful authority or legitimate regulatory purposes.

50F. Digital records and technology [NEW SECTION]

(1) The Board shall establish and maintain digital records of:

(a) all waqf registrations and waqfnamas;

(b) property boundaries and descriptions using GIS technology;

(c) financial transactions and audit reports;

(d) mutawalli appointments and changes;

(e) dispute resolutions and tribunal decisions.

(2) Digital records maintained under subsection (1) shall:

(a) be admissible in evidence in any proceedings;

(b) be accessible to the public subject to privacy protections;

(c) be preserved in accordance with international digital preservation standards;

(d) be backed up and secured against loss or unauthorized access.

(3) The Board may require mutawallis to submit information and documents in electronic format.

51. Conflict of interest

~~(1) — Where, in the opinion of the Board, there exists a conflict of interest between a person exercising the functions of mutawalli and the waqf managed or administered by him, the Board shall so notify such person by registered letter for the receipt of which such person shall sign an acknowledgment.~~

~~(2) — As from the receipt of such registered letter, the person exercising the functions of mutawalli shall cease to exercise such functions and the Board may appoint another person to fill the office of mutawalli in his place for such time as in the opinion of the Board the conflict of interest subsists.~~

(1) A member of the Board shall disclose any direct or indirect interest in:

(a) any contract or transaction with the Board or any waqf;

(b) any property that is or may become waqf property;

(c) any business or organization that deals with the Board or any waqf;

(d) any matter that may come before the Board for decision.

(2) Where a member has disclosed an interest under subsection (1), that member:

(a) shall not participate in deliberations on the matter;

- (b) shall not vote on the matter;
- (c) shall withdraw from the meeting during consideration of the matter unless the Board requests the member to provide information.
- (3) The Board shall maintain a register of interests disclosed under this section and make it available for public inspection.
- (4) A member of the Board who fails to disclose an interest as required by this section commits an offense and shall, on conviction, be liable to a fine not exceeding Rs 500,000 or to imprisonment for a term not exceeding one year.

51A. Performance standards and accountability [NEW SECTION]

- (1) The Board shall establish:
 - (a) performance indicators for waqf administration and development;
 - (b) standards for mutawalli performance and accountability;
 - (c) procedures for performance evaluation and improvement;
 - (d) mechanisms for beneficiary feedback and community engagement.
- (2) The Board shall prepare and publish:
 - (a) an annual report on the state of waqf administration in Mauritius;
 - (b) audited financial statements of the Board's operations;
 - (c) performance data on waqf development and charitable impact;
 - (d) such other information as may promote transparency and accountability.
- (3) The annual report under subsection (2)(a) shall be submitted to the National Assembly and made available to the public.

52. Vesting of waqf property in the Board

- ~~All waqf property of which there is no properly constituted mutawalli shall, pending the appointment of a mutawalli by the court or otherwise, vest in the Board as mutawalli of the property.~~
- (1) Waqf property for which there is no properly appointed mutawalli shall vest in the Board as interim mutawalli pending the appointment of a permanent mutawalli.
 - (2) Before vesting property under subsection (1), the Board shall:
 - (a) give 60 days' public notice of the proposed vesting;
 - (b) invite applications for appointment as mutawalli;
 - (c) consider any objections to the vesting;
 - (d) make reasonable efforts to locate eligible persons to serve as mutawalli.
 - (3) Property vested in the Board under this section shall be administered for the benefit of the objects of the waqf, and the Board shall:
 - (a) appoint a permanent mutawalli as soon as practicable;
 - (b) maintain separate accounts for each vested property;
 - (c) apply the income of the property strictly for the purposes of the waqf;
 - (d) provide annual reports on the administration of vested properties.

(4) The Board may apply to the court for directions regarding the administration of vested property where:

- (a) the purposes of the waqf are unclear or disputed;
- (b) the property requires major development or restructuring;
- (c) there are conflicting claims to appointment as mutawalli;
- (d) other circumstances make court guidance advisable.

PART VIII -- WAQF TRIBUNAL AND INFRASTRUCTURE [NEW PART] LEGAL PROCEEDINGS AND GENERAL

53. Procedure on breach of trust Waqf Tribunal and jurisdiction

(1) There is hereby established a Waqf Tribunal which shall have jurisdiction over:

- (a) disputes regarding waqf administration and management;
- (b) applications for appointment or removal of mutawallis;
- (c) breaches of trust by mutawallis;
- (d) disputes between beneficiaries and mutawallis;
- (e) applications for approval of major transactions involving waqf property;
- (f) such other matters as may be prescribed.

(2) The Chief Justice shall maintain a panel of qualified persons eligible to sit on the Waqf Tribunal, consisting of:

- (a) not less than 3 Judges or former Judges of the Supreme Court;
- (b) not less than 4 persons with expertise in Islamic law;
- (c) not less than 4 persons with expertise in property or commercial law;
- (d) not less than 2 persons with experience in charitable administration.

(3) Panel members shall be appointed by the Chief Justice for terms of 3 years and may be reappointed for one additional term.

(4) For each matter brought before the Tribunal, the Chief Justice shall constitute a sitting tribunal comprising:

- (a) one person from subsection (2)(a) as chairperson; and
- (b) two other panel members selected based on their relevant expertise for the particular matter.

(5) Panel members shall receive sitting fees not exceeding Rs 15,000 per day of hearing.

(6) Administrative support for the Tribunal shall be provided by the Registry of the Supreme Court.

~~(1)(7)~~ In case of any alleged breach of trust in the management or administration of a waqf, or where the direction of the court is deemed necessary for the management or administration of a waqf the Board or any person having an interest in the property made waqf may apply to the court to obtain an order— A sitting tribunal constituted under subsection (4) may:

- (a) ~~removing~~ remove any mutawalli;
- (b) ~~appointing~~ appoint a new mutawalli;
- (c) ~~vesting~~ any property in a mutawalli;

- (d) directing accounts and inquiries;
- (e) declaring what proportion of the waqf property, or of the interest in it, shall be allocated to any particular object of the waqf;
- (f) authorising the whole, or any part of the waqf property to be sold or exchanged;
- (g) authorising ~~Shariah-compliant financing arrangements a loan on mortgage or without mortgage~~;
- (h) directing the registration or transcription of a declaration of waqf,
- (i) settling a scheme ~~for waqf administration, ; or~~
- (j) granting such further or other relief as the nature of the case may require.

53A. Procedure before Waqf Tribunal [NEW SECTION]

- (1) Proceedings before the Waqf Tribunal shall be commenced by application filed with the Registrar of the Supreme Court.
- (2) The applicant shall serve notice of the application on:
 - (a) the Board;
 - (b) the mutawalli or other persons directly affected;
 - (c) such other persons as the Tribunal may direct.
- (3) Any person served with notice under subsection (2) may file a response within 21 days of service.
- (4) Upon receipt of an application, the Chief Justice shall:
 - (a) constitute a sitting tribunal for the matter by selecting three appropriate panel members under section 53(4);
 - (b) designate one member as chairperson;
 - (c) direct the Registrar to schedule hearings within 60 days of the application being filed.
- (5) The sitting tribunal shall:
 - (a) conduct hearings in accordance with natural justice principles;
 - (b) give all parties opportunity to be heard and to present evidence;
 - (c) allow representation by counsel;
 - (d) make decisions within 90 days of the conclusion of hearings except in complex cases requiring longer consideration.
- (6) The sitting tribunal may:
 - (a) order mediation or other alternative dispute resolution;
 - (b) make interim orders for the protection of waqf property;
 - (c) award costs against any party;
 - (d) make such other procedural orders as may be necessary for the just determination of proceedings.
- (7) Where urgent interim relief is required and a sitting tribunal cannot be constituted within 7 days, the Chief Justice may:
 - (a) designate a single Judge of the Supreme Court to grant interim relief; or

(b) constitute an expedited tribunal to deal with the urgent matter.

53B. Appeals from Waqf Tribunal [NEW SECTION]

(1) A party aggrieved by a decision of the Waqf Tribunal may appeal to the Supreme Court within 30 days of the decision.

(2) An appeal under subsection (1) may be brought only on:

(a) questions of law;

(b) questions of mixed fact and law where the Tribunal's decision was clearly wrong;

(c) procedural irregularities that affected the fairness of the proceedings.

(3) The Supreme Court may:

(a) allow or dismiss the appeal;

(b) substitute its own decision for that of the Tribunal;

(c) remit the matter to the Tribunal for reconsideration;

(d) make such other order as it thinks fit.

(4) No further appeal shall lie from a decision of the Supreme Court under this section except with leave of the Judicial Committee of the Privy Council on matters of general public importance.

PART IX - LEGAL FRAMEWORK, ENFORCEMENT AND JUDICIAL OVERSIGHT

54. Disciplinary powers of Tribunal jurisdiction

~~The court when making an order under section 53 may—~~

~~(a) — direct the mutawalli to do any of the things mentioned in that section in cases where the performance of any act in conformity with such order would be incumbent upon the mutawalli;~~

~~b) — in particular, deprive a mutawalli of his remuneration where he has been guilty of improper conduct in the discharge of his duties; and~~

~~(c) — further order a mutawalli who has been guilty of waste to file, at stated intervals, a true and complete account of the income and expenditure of the waqf, and of his dealings with the waqf property.~~

(1) When making an order under section 53, the Waqf Tribunal may:

(a) direct the mutawalli to perform any act required for proper waqf administration;

(b) deprive a mutawalli of remuneration where the mutawalli has been guilty of improper conduct;

(c) order a mutawalli who has been guilty of waste or mismanagement to:

(i) file periodic accounts of income and expenditure;

(ii) provide security for proper performance of duties;

(iii) submit to enhanced supervision by the Board;

(iv) undergo training in proper waqf administration.

(2) The Tribunal may order restitution of waqf property or compensation for losses caused by a mutawalli's breach of duty.

(3) A mutawalli who fails to comply with an order of the Tribunal commits an offense and shall, on conviction, be liable to a fine not exceeding Rs 500,000 or to imprisonment for a term not exceeding 2 years.

55. Who may sue in case of breach of trust

~~The Board and any person interested in any mosque, or in the performance of the worship or of the service of it, or the trusts, if any relating to it, may, without joining as plaintiff any of the other persons interested, sue before the court the mutawalli of such mosque for any misfeasance, breach of trust or neglect of duty, committed by the mutawalli in respect of the trust vested in him and the court may direct the specific performance of any act by the mutawalli and may grant damages and costs against the mutawalli, and may also direct the removal of the mutawalli.~~

(1) The following persons may bring proceedings before the Waqf Tribunal regarding any waqf:

(a) the Board;

(b) any beneficiary under the waqf;

(c) any person interested in any mosque or in the performance of worship or service relating to it;

(d) the Attorney-General where the public interest is involved;

(e) any other person with the leave of the Tribunal.

(2) A person bringing proceedings under subsection (1) need not join other interested persons as parties unless the Tribunal so orders.

(3) The Tribunal may:

(a) order that proceedings be brought in a representative capacity;

(b) appoint a person to represent the interests of beneficiaries who cannot be readily identified or located;

(c) make such other orders regarding representation as may be necessary for the fair and efficient conduct of proceedings.

55A. ~~Proceedings concerning waqfs~~ Notice to Board and intervention

~~Where proceedings before any court may affect the interests of a waqf, notice of such proceedings shall be given to the Board by the party entering the proceedings in time to allow the Board to be represented at the proceedings and the Board shall be entitled to be represented at the proceedings.~~

(1) In any proceedings before any court that may affect the interests of a waqf, notice shall be given to the Board by the party commencing the proceedings.

(2) The Board shall be entitled to intervene in any proceedings under subsection (1) and shall be deemed to be a party to the proceedings for the purpose of representing the interests of the waqf and its beneficiaries.

(3) Notice under subsection (1) shall be given:

(a) at the time of filing the initial pleading; and

(b) in such form and manner as may be prescribed by rules of court.

56. Protection of Waqf property ~~not liable to attachment~~

- (1) Waqf property shall not be liable to attachment and sale in execution of a judgment against the mutawalli ~~for personal debts~~, nor may the rents and profits be seized in execution.
- (2) Subject to subsection (3), income from waqf property shall not be seized in execution of a judgment against the mutawalli for personal debts.
- (3) Subsections (1) and (2) shall not apply to:

 - (a) debts incurred by the mutawalli in the proper administration of the waqf and for the benefit of the waqf;
 - (b) remuneration lawfully due to the mutawalli from the waqf;
 - (c) loans secured against waqf property with proper authorization under this Act.
- (4) In case of doubt whether a debt falls within subsection (3), the matter shall be determined by the Waqf Tribunal.
- (5) No execution shall issue against waqf property without prior determination by the Waqf Tribunal that the execution is permitted under this section.
- (6) This section shall not prevent:

 - (a) asset recovery actions under the Financial Crimes Commission Act 2023;
 - (b) confiscation orders where waqf property represents proceeds of crime;
 - (c) investigation and attachment of property under UN sanctions legislation;
 - (d) freezing orders issued by competent authorities under anti-money laundering legislation.
- (7) Where waqf property is subject to asset recovery proceedings:

 - (a) the Board shall cooperate fully with the Financial Crimes Commission and other competent authorities;
 - (b) charitable activities may continue pending final determination unless otherwise ordered;
 - (c) alternative arrangements shall be made for beneficiary support where property is frozen or confiscated;
 - (d) any proceeds ultimately released shall be applied for charitable purposes consistent with the original waqf objectives.

56A. Insolvency and waqf property [NEW SECTION]

- (1) Where a mutawalli becomes bankrupt or insolvent:

 - (a) waqf property shall not form part of the mutawalli's estate;
 - (b) the Board shall assume temporary administration of the waqf property;
 - (c) a new mutawalli shall be appointed as soon as practicable.
- (2) Where waqf property is held jointly with other property, the court may order partition or sale to separate the waqf interest.
- (3) Proceeds from any sale under subsection (2) attributable to the waqf interest shall be reinvested in accordance with the purposes of the waqf.

57. Donations and legacies ~~Application of other laws~~

- (1) Articles 910, 911 and 931 of the Code Napoleon shall not apply to waqfs.
- (2) The Succession and Donation Duties Act shall apply to waqfs subject to the provisions of section 58.

(3) Nothing in this Act shall affect the operation of the Bankruptcy Act except as provided in section 56A.

(4) The Trust Act shall not apply to waqfs except where expressly provided in this Act.

58. Succession duties ~~and Taxation payable on all waqfs~~

~~Any person acquiring, or succeeding to, the enjoyment of property, the subject of a dedication by way of waqf, whether made inter vivos or by will, shall be liable to pay duty on the full value of such property according to section 3 of the Succession and Donation Duties Act, and the provisions of that Act relating to the payment of succession duties shall apply in respect of the payment of duty under this section.~~

(1) Any person acquiring or succeeding to the enjoyment of property that is the subject of a waqf shall be liable to pay duty on the full value of such property according to the Land (Duties And Taxes) Act.

(2) Waqf property shall be exempt from:

(a) income tax on income applied for charitable purposes in accordance with the waqf;

(b) property tax on property used exclusively for religious or charitable purposes;

(c) capital gains tax on disposal of property where proceeds are reinvested for the purposes of the waqf within 12 months.

(3) The exemptions under subsection (2) shall not apply to:

(a) commercial activities conducted by a waqf that are not directly related to its charitable purposes;

(b) property used for non-charitable purposes;

(c) income derived from investments in activities prohibited by Islamic law.

58A. Change in person to be notified

(1) Any change occurring in the person enjoying waqf property or serving as mutawalli shall be notified to:

(a) the Board within 30 days of the change;

(b) the Receiver of Registration Dues within 3 months of the change.

~~_____ shall be notified to the Receiver of Registration Dues by the mutawalli of the waqf concerned within 3 months of the change.~~

(2) Any mutawalli who falls to comply with subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees.

(3) The Board shall maintain a public register of all changes notified under subsection (1).

59. Application of the Bankruptcy Act

- (1) Nothing in this Act shall be taken to affect, modify or amend the Bankruptcy Act and any property being the subject of a waqf shall, in the event of the bankruptcy of the waqif, be governed by that Act.
- (2) Notwithstanding subsection (1), where waqf property is held jointly with other property of a bankrupt waqif, the court may order partition or sale to separate the waqf interest from the bankrupt's estate.
- (3) Proceeds from any sale under subsection (2) attributable to the waqf interest shall be reinvested in accordance with the purposes of the waqf and shall not form part of the bankrupt's estate.

60. Undivided share of waqf property

- ~~(1) (1) — Any person being the owner of an undivided share in property, part of which has been made waqf may apply to the Waqf Tribunal for:
(a) partition of the property if it can conveniently be divided; or
(b) sale by licitation of the said property if partition is not practicable.
~~, may ask for the sale by licitation of the said property, the sale to be prosecuted against the mutawalli.~~~~
- ~~(2) — The mutawalli may apply to the Master for the partition of the property if the property can conveniently be divided between the parties.~~
- ~~(3) — Where any property, part of which is waqf, has been sold by licitation, the share accruing to the waqf in the proceeds of the sale shall be deposited in the name of the waqf in any bank designated by the Board, and the amount shall not be withdrawn in whole or in part, except with the written authorisation of the Board.~~
- (2) The Tribunal shall order the most appropriate remedy considering:
 - (a) the interests of all parties;
 - (b) the purposes of the waqf;
 - (c) the practical feasibility of partition versus sale;
 - (d) the potential impact on charitable activities.
- (3) Where property is sold under subsection (1)(b):
 - (a) the share accruing to the waqf shall be held by the Board in trust;
 - (b) the proceeds shall be reinvested in property suitable for the purposes of the waqf;
 - (c) any reinvestment shall be made within 18 months of the sale.

61. Rules of procedure~~Judges may make rules~~

~~The Judges of the court may make rules governing the procedure to be followed in matters within the jurisdiction of the court under this Act.~~

- (1) The Supreme Court may make rules governing:
 - (a) procedure before the Waqf Tribunal;
 - (b) forms to be used in proceedings under this Act;
 - (c) fees payable for proceedings and services;
 - (d) service of documents and notices;
 - (e) such other matters as may be necessary for the effective operation of this Act.
- (1) Rules made under subsection (1) shall be published in the Gazette and laid before

the National Assembly.

62. Regulations and implementation

- ~~(1) The President may make such regulations as he thinks fit for the purpose of this Act.~~
- ~~(2) Any regulations made under subsection (1) may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500 rupees and to imprisonment for a term not exceeding 6 months.~~

Amended by [Act No. 48 of 1991]

- (1) The President may make regulations for:
- (a) the conduct of Board meetings and procedures;
 - (b) standards for waqf administration and management;
 - (c) investment guidelines and financial management;
 - (d) registration and documentation requirements;
 - (e) training and certification of mutawallis;
 - (f) any other matter necessary for implementing this Act.
- (2) Regulations made under subsection (1) may provide that any person who contravenes them commits an offence and shall, on conviction, be liable to a fine not exceeding Rs 500,000 or to imprisonment for a term not exceeding one year.
- (3) All regulations made under this Act shall be:
- (a) published in the Gazette;
 - (b) laid before the National Assembly within 21 days of being made;
 - (c) subject to annulment by resolution of the National Assembly.

63. Application to other islands

- (1) All declarations of waqf made in any island other than the Island of Mauritius shall be registered with the Board.
- ~~(1)~~(2) Existing appointments, registrations, and procedures under the previous law shall remain valid until modified in accordance with this Act.