

Bill Summary

The Waqf (Amendment) Bill, 2024

- The Waqf (Amendment) Bill, 2024 was introduced in Lok Sabha on August 8, 2024. It amends the Waqf Act, 1995. The Act regulates waqf property in India. The Act defines waqf as an endowment of movable or immovable property for purposes considered pious, religious, or charitable under Muslim law. Every state is required to constitute a Waqf Board to manage waqf. The Bill renames the Act to ‘United Waqf Management, Empowerment, Efficiency and Development Act, 1995’.
- **Formation of waqf:** The Act allows waqf to be formed by: (i) declaration, (ii) recognition based on long-term use (waqf by user), or (iii) endowment when the line of succession ends (waqf-alal-aulad). The Bill states that only a person practicing Islam for at least five years may declare a waqf. It clarifies that the person must own the property being declared. It removes waqf by user. It also adds that waqf-alal-aulad must not result in denial of inheritance rights to the donor’s heir including women heirs.
- **Government property as waqf:** The Bill states that any government property identified as waqf will cease to be so. The Collector of the area will determine ownership in case of uncertainty, and submit a report to the state government. If deemed a government property, he will update the revenue records.
- **Power to determine if a property is waqf:** The Act empowers the Waqf Board to inquire and determine if a property is waqf. The Bill removes this provision.
- **Survey of waqf:** The Act provides for appointment of a Survey Commissioner and additional commissioners to survey waqf. The Bill instead empowers Collectors to do the survey. Pending surveys will be conducted as per the state revenue laws.
- **Central Waqf Council:** The Act constitutes the Central Waqf Council to advise the central and state governments and Waqf Boards. The Union Minister in-charge of Waqf is the ex-officio chairperson of the Council. The Act requires that all Council members be Muslims, and at least two must be women. The Bill instead provides that two members must be non-Muslims. MPs, former judges, and eminent persons appointed to the Council as per the Act need not be Muslims. Following members must be Muslims: (i) representatives of Muslim organisations, (ii) scholars in Islamic law, and (iii) chairpersons of Waqf Boards. Of the Muslim members, two must be women.
- **Waqf Boards:** The Act provides for election of up to two members each from electoral colleges of Muslim: (i) MPs, (ii) MLAs and MLCs, and (iii) Bar Council members, from the state to the Board. The Bill instead empowers the state government to nominate one person from each of the above background to the Board. They need not be Muslims. It adds that the Board must have: (i) two non-Muslim members, and (ii) at least one member each from Shias, Sunnis, and Backward classes of Muslims. It must also have one member each from Bohra and Agakhani communities if they have waqf in the state. The Act provides that at least two members must be women. The Bill states that two Muslim members must be women.
- **Composition of Tribunals:** The Act requires states to constitute Tribunals to address disputes over waqf. The Chairman of these Tribunals must be a Judge of the rank equivalent to a Class-1, District, Sessions, or Civil Judge. Other members include: (i) a state officer equal to an Additional District Magistrate, and (ii) a person knowledgeable in Muslim law and jurisprudence. The Bill removes the latter from the Tribunal. It instead provides the following as members: (i) a current or former District Court judge as its chairman, and (ii) a current or former officer of the rank joint secretary to the state government.
- **Appeal on orders of Tribunals:** Under the Act, decisions of the Tribunal are final and appeals against its decisions in Courts are prohibited. The High Court can consider matters on its own accord, on an application by the Board, or an aggrieved party. The Bill omits provisions deeming finality to Tribunal’s decisions. Tribunal’s orders may be appealed in the High Court within 90 days.
- **Powers of the central government:** The Bill empowers the central government to make rules regarding: (i) registration, (ii) publication of accounts of waqf, and (iii) publication of proceedings of waqf Boards. Under the Act, state government may get the accounts of waqfs audited at any point. The Bill empowers the central government to get these audited by the CAG or a designated officer.
- **Waqf Boards for Bohra and Agakhani:** The Act allows establishing separate Waqf Boards for Sunni and Shia sects if Shia waqf constitute more than 15% of all waqf properties or waqf income in the state. The Bill also allows separate waqf boards for Aghakhani and Bohra sects.

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