

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 176 (National Assembly Bills No. 73)*



REPUBLIC OF KENYA

**KENYA GAZETTE SUPPLEMENT**

**NATIONAL ASSEMBLY BILLS, 2019**

---

---

**NAIROBI, 18th October, 2019**

---

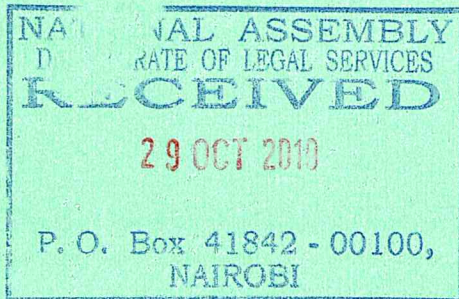
---

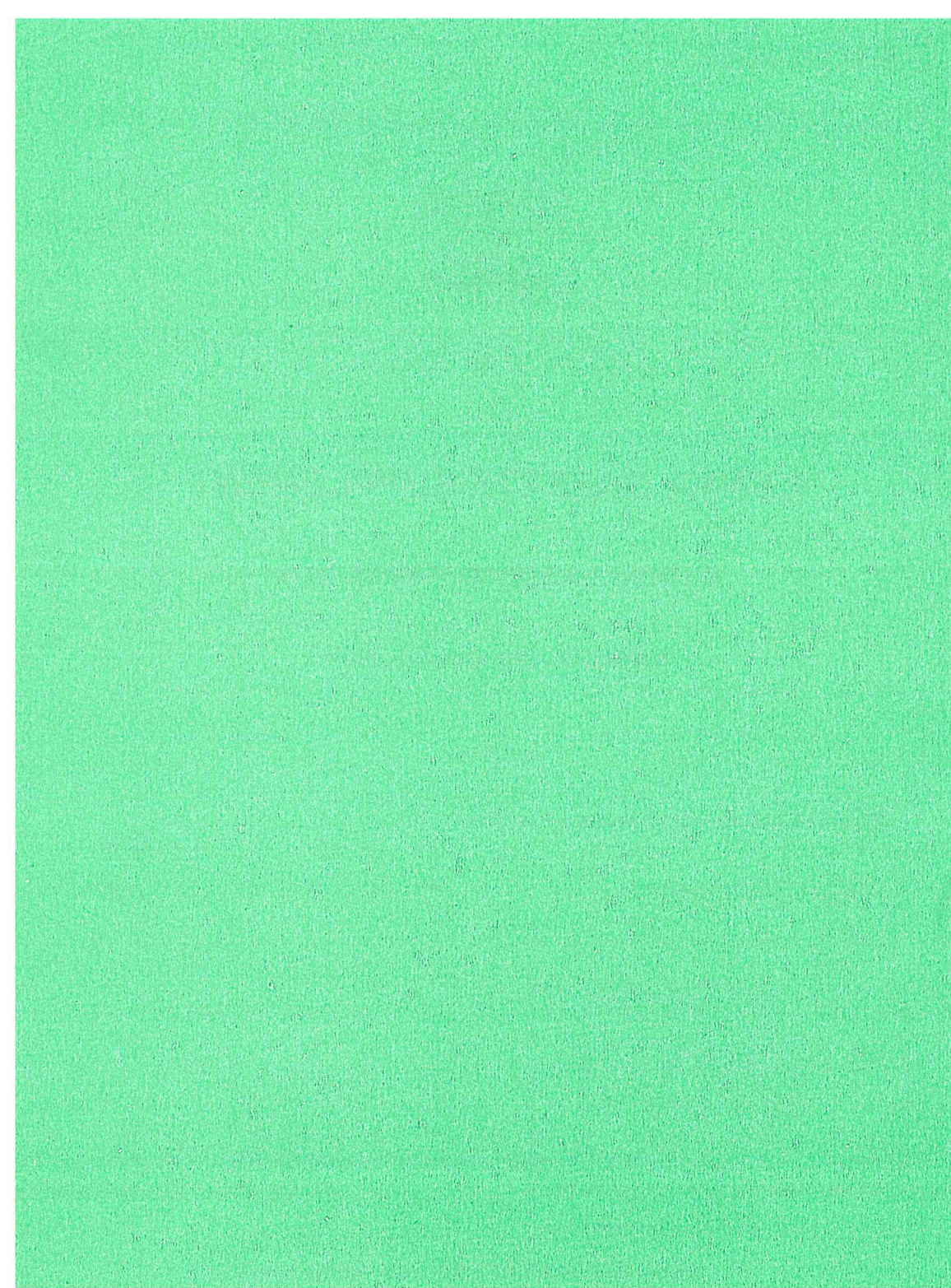
CONTENT

Bill for Introduction into the National Assembly—

PAGE

The Waqf Bill, 2019..... 1127





**THE WAQF BILL, 2019**  
**ARRANGEMENT OF CLAUSES**

*Clause*

**PART I—PRELIMINARY**

- 1—Short title
- 2—Interpretation
- 3—Application
- 4—Validity of a *waqf*

**PART II—WAQF COMMISSION**

- 5—Establishment of the *Waqf* Commission
- 6—Composition of the Commission
- 7—Selection panel
- 8—Functions of the Commission
- 9—Chairperson and quorum
- 10—Remuneration of Commissioners
- 11—Director-General
- 12—Staff of the Commission

**PART III—MANAGEMENT OF AWQAF**

- 13—Register of *awqaf*
- 14—Administration of *awqaf* by the Commission
- 15—Inquiry by the Commission
- 16—Production of documents by Trustees
- 17—Agreements relating to *waqf* property
- 18—Titles to *waqf* property
- 19—Administration of *awqaf*
- 20—Disposal of *waqf* property
- 21—Unclaimed property of deceased Muslims
- 22—Limitation on the use of *waqf* property by the

---

23—Maintenance and reserve account

24—Surplus account

**PART IV—FINANCIAL PROVISIONS**

25—Accounts and audit

26—Bank accounts

27—Annual Report

**PART V—MISCELLANEOUS**

28—Fees

29—Rules

30—Repeal of Cap.109 and savings

31—Transitional provisions

# THE *WAQF* BILL, 2019

## A Bill for

AN ACT of Parliament to provide for the establishment of the *Waqf* Commission; to provide for the administration of *waqf* property and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

### PART I—PRELIMINARY

1. This Act may be cited as the *Waqf* Act, 2019.

Short title.

2. In this Act, except where the context otherwise requires—

Interpretation.

“*alim*” means a Muslim scholar;

“Commission” means the *Waqf* Commission established under section 5;

“Director-General” means the Director-General appointed under section 11 (1);

“general administration account” means an account whose funds are used for the general administration and management of the Commission;

“maintenance and reserve account” means an account whose funds are used for preservation and maintenance of *waqf* property;

“surplus account” means the account established under section 24;

“Muslim” means a person who professes the Islamic faith;

“trustee” means a person, whether alone or jointly with another, administering any *waqf* property;

“*waqif*” means a person who endows his property or cash as the subject of a *waqf*;

“*waqf*” means a religious, charitable or benevolent endowment or dedication of any property in accordance with Islamic law, and “*awqaf*” means more than one *waqf*;

“*waqf ahli*” means a *waqf* made for the benefit of an individual or a family, or for the performance of a rite or ceremony that is recognised by Islamic law;

“*waqf khairi*” means a *waqf*, other than a *waqf ahli*, made for a public purpose recognised by Islamic law; and

“*waqf mushtaraq*” means a *waqf* which is made in part for the benefit of an individual or a family and in part for a public purpose that is recognised by Islamic law.

3. This Act shall apply to the making and administration of all *awqaf* in Kenya. Application.

4. (1) A *waqf* shall be valid where— Validity of a *waqf*.

(a) it is made in accordance with Islamic law; and

(b) the ultimate benefit of the *waqf* is expressly, or, if permitted by the personal practices of the *waqif*, impliedly, reserved for the poor or for any other purpose recognised under Islamic law as a purpose of a permanent character:

Provided that the absence of any reservation of the ultimate benefit of a *Waqf* for the poor or any other purpose recognised under Islamic law as a purpose of a permanent character shall not invalidate a *waqf* if the personal practices of the *waqif* do not require any such reservation.

(2) A *waqf* shall not be invalid merely because the benefit of the *waqf* that shall be reserved for the poor or any other purpose shall not take effect until after the extinction of the family of the *waqif*.

## PART II—WAQF COMMISSION

5. (1) There is established a commission to be known as the *Waqf* Commission. Establishment of the *Waqf* Commission.

(2) The Commission shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

(c) borrowing money;

(d) entering into contracts; and

(e) doing or performing all other things or acts for the proper performance of its functions under this Act

which may be lawfully done or performed by a body corporate.

(3) The seal of the Commission shall be authenticated by the signature of the chairperson, or a member authorised by the Commission to act in that behalf in the absence of the chairperson, and the Director-General.

(4) The seal of the Commission, when authenticated under subsection (3), shall be officially and judicially noticed.

(5) All documents, other than those required by law to be under seal, made by, and all decisions of the Commission, may be signed by the chairperson, any commissioner authorised to do so in the absence of the chairperson, or the Director-General.

6. The Commission shall consist of the Attorney-General and eight members who shall be appointed by the President, on the recommendation of the selection panel appointed under section 7, as follows—

Composition of the Commission.

- (a) one *alim* who shall be well-versed in Islamic jurisprudence;
- (b) one person who shall represent trustees;
- (c) one person who shall represent beneficiaries;
- (d) one person who shall be prominent in business or entrepreneurship;
- (e) four persons who shall be knowledgeable and experienced in—
  - (i) law;
  - (ii) accounting;
  - (iii) land economics; or
  - (iv) social work; and
- (f) the Director-General appointed under section 11 (1) who shall be an *ex officio* member without the right to vote at the meetings of the Commission.

7. (1) The President shall, within fourteen days after the occurrence of a vacancy in the Commission, appoint a selection panel for the purpose of nominating suitable candidates for appointment as a member of the Commission under section 6 (a), (b), (c), (d) or (e).

Selection panel.

(2) The selection panel shall comprise of five eminent Muslims of either gender appointed by the President in consultation with key Islamic leaders and organisations:

Provided that—

- (a) no Kadhi shall be appointed as a member of the selection panel; and
- (b) the selection panel shall be dissolved on the appointment of the Commissioners.

(3) The selection panel shall—

- (a) invite applications from qualified persons by notice in the *Gazette* and advertisement in at least two newspapers of national circulation;
- (b) prepare a shortlist of qualified applicants; and
- (c) conduct interviews of shortlisted applicants to assess their qualifications as specified in section 6 and their compliance with Chapter Six of the Constitution; and
- (d) recommend the names of successful candidates to the President for appointment as members of the Commission.

(4) The selection panel shall invite views from Muslims in respect of the shortlisted candidates before making its recommendations to the President under paragraph (3) (d).

(5) The selection panel shall ensure that—

- (a) not more than two-thirds of the members of the Commission are of the same gender;
- (b) one member of the Commission shall represent the youth; and
- (c) one member of the Commission shall represent persons with disabilities.

(6) Members of the Commission shall hold office for a period of three years and shall be eligible for reappointment for one further term of three years.

(7) The office of a member of the Commission shall become vacant if the holder—



- (a) dies;
- (b) is absent from three successive meetings of the Commission without the permission of the chairperson,
- (c) resigns by notice in writing addressed to the President; or
- (d) is removed from office under any of the circumstances specified in Article 251 and Chapter Six of the Constitution.

(8) A vacancy in the Commission shall be filled in accordance with the procedure set out in this section.

8. The functions of the Commission shall be to—

Functions of the Commission.

- (a) register all *awqaf*;
- (b) administer and manage *waqf* properties registered under this Act;
- (c) supervise the efficient and effective management of all *waqf* properties registered under this Act;
- (d) ensure the effective implementation of the provisions of this Act;
- (e) establish such structures as may be necessary for the effective performance of its functions or exercise of its powers under this Act;
- (f) formulate policies for the performance of its functions;
- (g) collect *zakat* and other charitable contributions from Muslims for the purposes of this Act; and
- (h) perform such other functions as may be prescribed by this Act or any other written law.

Chairperson and quorum.

9. (1) At the first meeting of the Commission in each year, the members shall elect one person from among their number to be the chairperson during the year.

(2) The chairperson shall preside over all meetings of the Commission, and in the absence of the chairperson from any meeting, the members present shall elect one person from those present to preside over the meeting.

(3) The quorum of the Commission shall be five members.

(4) Notwithstanding subsection (3), where quorum is not achieved in two successive meetings, three members of the Commission may hold a meeting.

(5) Except as provided under this section the Commission may regulate its own procedure.

10. There shall be paid to the members of the Commission such allowances as the Commission may, in consultation with the Salaries and Remuneration Commission, determine.

Remuneration of members of the Commission.

11. (1) There shall be a Director-General of the Commission who shall be recruited and appointed by the Commission through a competitive process on such terms and conditions as the Commission may in consultation with the Salaries and Remuneration Commission determine.

The Director-General.

(2) A person shall be qualified for appointment under subsection (1) if the person—

- (a) is a Muslim;
- (b) is a citizen of Kenya;
- (c) holds a degree from a university recognized in Kenya;
- (d) has at least five years' experience at senior management level in a public institution;
- (e) has knowledge and experience in any of the following fields—
  - (i) administration;
  - (ii) accounting;
  - (iii) certified public secretarial work;
  - (iv) law;
  - (v) land economics;
  - (vi) social work;
  - (vii) architecture;
  - (viii) construction management; or
  - (ix) civil engineering; and
- (f) meets the requirements of Chapter Six of the Constitution.

(2) The Director-General shall be the chief executive officer of the Commission and responsible for the day-to-day management of the affairs of the Commission.

(3) The Director-General shall be the accounting officer of the Commission and shall be responsible to the Commission for—

- (a) all income and expenditure of the Commission;
- (b) the assets and the discharge of all liabilities of the Commission; and
- (c) the proper implementation of this Act.

12.(1) The Commission may appoint such other officers and staff as may be necessary for the proper discharge of its functions under this Act.

Staff of the  
Commission.

(2) The persons appointed under subsection (1) shall serve on such terms and conditions as the Commission may, in consultation with the Salaries and Remuneration Commission, determine.

### PART III—MANAGEMENT OF AWQAF

13.(1) All *awqaf* shall be registered with the Commission in such manner as the Commission may specify.

Register of *awqaf*.

(2) The Commission shall establish and maintain a register of registered *awqaf* in such form and containing such particulars as it may determine.

(3) Every trustee of a *waqf* shall, within three months from the date of the establishment of the *waqf*, apply to the Commission for its registration in the prescribed manner.

(4) An application under subsection (4) shall be accompanied by such fees as may be prescribed.

(5) A trustee who fails to comply with the provisions of subsection (3) commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year.

14. (1) The Commission may, on the application of the trustees of a *waqf khairi* and subject to such conditions as may be imposed by the *waqif*, take over the administration of such *waqf*, and any property that is the object of the *waqf* shall vest in the Commission.

Administration of  
*awqaf* by the  
Commission.

(2) The Commission may, on the application by the trustees and with the consent of the majority of the beneficiaries of a *waqf ahli* or *waqf mushtaraq* and subject to such conditions as may be imposed by the *waaqif*, take over the administration of such *waqf*, and any property that is the object of the *waqf* shall vest in the Commission.

15. (1) Where it appears to the Commission, in respect of any *waqf*, that—

Inquiry by the Commission.

(a) there is no properly constituted body of trustees; or

(b) a trustee is acting in an improper or unauthorised manner, the Commission may hold an inquiry into the matter—

(i) in the case of a *waqf khairi*, on its own motion; or

(ii) in the case of a *waqf ahli*, on the motion of the trustees, with the consent of the majority of the beneficiaries.

(3) Where an inquiry is commenced by a motion filed by the trustees of a *waqf*, the trustees shall furnish the Commission, within thirty days of the filing of the motion, with the names and addresses of the beneficiaries of the *waqf* and any other person who has an interest in the *waqf*.

(4) The Commission shall issue a written notice of an inquiry to all persons having any interest in the *waqf* inviting them to appear and give representations before the Commission.

(5) If after holding an inquiry, the Commission finds either that there is no properly constituted body of trustees or that a trustee is acting in an improper or unauthorised manner, the Commission may make an order—

(a) declaring that the property that is the subject of the *waqf* shall be administered by the Commission; or

(b) appointing some other person to be a trustee of the *waqf*.

(6) The Attorney-General may make regulations prescribing the procedure for the holding of inquiries under this section.

16. (1) The Commission may, at any time, call upon a trustee of a *waqf* to produce any books or documents in his

Production of documents by Trustees.

or her possession or control, including books of accounts, relating to the *waqf* in order to satisfy itself regarding the management of the *waqf*.

(2) A trustee who fails to comply when called upon to do so under subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year.

17. (1) An agreement purporting to sell, lease or otherwise alienate *waqf* property for any period exceeding one year shall be valid only if it is authorised in writing by the Commission.

Agreements relating to *waqf* property.

(2) A trustee who enters into an agreement contrary to the provisions of subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year.

18. Notwithstanding anything to the contrary in any written Law for the time being in force, no title to any *waqf* property shall be acquired by any person by adverse possession or by reason of the law of prescription.

Title to *waqf* property.

19. (1) *Waqf* property under the control of the Commission shall be administered by the Commission in accordance with the intentions of the *waqif*:

Administration of a *Waqf*.

Provided that the intentions of the *waqif* shall only be honoured if they—

- (a) are lawful;
- (b) accord with Islamic law;
- (c) are capable of being carried into effect, and
- (d) are ascertainable by reference to tradition or by reference to any other evidence lawfully obtainable.

(2) Notwithstanding subsection (1), where in the opinion of the Commission the intentions of the *waqif* are unlawful or unascertainable or are incapable of being carried out, the Commission may apply the *waqf* property—

- (a) in the case of a *waqf khairi*, for such benevolent or charitable purposes on behalf of Muslims as the Commission may deem proper; or

(b) in the case of a *waqf ahli*, in such manner as the Commission may deem fit for the benefit of the beneficiaries of the *waqf*.

(3) The Commission shall apply any surplus revenue which remains after fulfilling the intentions of a *waqif* in the manner set out in paragraphs (2) (a) and (b).

(4) Where the Commission determines that a trustee of a *waqf* is mismanaging *waqf* property, the Commission may conduct an inquiry in accordance with section 15 and may make the following orders against the persons found culpable—

(a) in the case of *waqf ahli*, an order to return the *waqf* property that has been mismanaged to the family members—

(i) if they so desire; and

(ii) if they demonstrate a capacity to manage the *waqf* property themselves; or

(b) that the property be dealt with in accordance with section 15 (5).

**20.** Where, in relation to any *waqf*, the Commission determines that—

Disposal of *Waqf* property.

(a) the intentions of the *waqif* cannot reasonably be carried into effect; and

(b) it is expedient that the *waqf* property should be sold,

the Commission may cause that property to be sold and shall ensure that the proceeds of the sale are administered in accordance with section 21 (2) and (3):

Provided that nothing in this section shall be deemed to authorise the sale of any land which, under a *waqf*, was intended to be used for a cemetery, burial ground or the construction of a mosque.

**21.**(1) Any property of a deceased Muslim to which no claim has been established within one year from the date upon which that property is vested in—

Unclaimed property of deceased Muslims.

(a) the administrator of the estate;

(b) the Public Trustee; or

(c) the Unclaimed Financial Assets Authority,

shall be transferred to the Commission by the administrator of the estate, the Public Trustee or the Unclaimed Financial Assets Authority, as the case may be.

(2) Any property transferred to the Commission under subsection (1) shall—

(a) if it is in the form of cash, be paid into an account to be known as the surplus account which the Commission shall establish for that purpose, and

(b) where it is in a form other than cash, be converted into cash and paid into the surplus account.

(3) Cash from the surplus account shall be utilised by the Commission for such benevolent or charitable purposes for the benefit of Muslims as the Commission may consider appropriate:

Provided that if, within fifteen years from the date of the transfer of any property under subsection (1), any person establishes a claim thereto, the Commission shall pay out of the account a sum equal to the amount initially paid to the Commission in respect of such property.

22. (1) The Commission shall not utilize *waqf* property or any revenue therefrom for any purpose connected with another *waqf* if there still exists *waqf* property or revenue from the latter *waqf*.

Limitation on the use of *waqf* property by the Commission.

(2) Notwithstanding subsection (1), if the Commission determines that a *waqf khairi* is urgently in need of any funds for repairs or for any other purpose, it may, notwithstanding that there exists *waqf* property in that *waqf khairi*, utilize the revenue arising from any other *waqf* property or another *waqf khairi* for that purpose.

(3) Notwithstanding subsection (2), the Commission shall utilize the revenue arising from another *waqf khairi* if it is satisfied that—

(a) that revenue is not then required in relation to the latter *waqf khairi*; and

(b) the amount of the revenue so utilised shall, without prejudice to the purposes of the *waqf* relating to which it is used, be repaid out of the property of that *waqf* within one year from the date of being so utilised.

23. The Commission shall ensure that, in respect of each *waqf*, a sum which in the opinion of the Commission is necessary to maintain and preserve the *waqf* property is paid into a maintenance and reserve account before any payment is made for the purpose of carrying out the intentions of the *waqif*:

Maintenance and Reserve account.

Provided that the amount used to maintain the *waqf* shall not exceed thirty percent of the value of the *waqf* property.

24.(1) If, in respect of any *Waqf*—

Surplus account.

(a) the intentions of the *waqif*—

- (i) are unlawful or unascertainable; or
- (ii) are incapable of being carried into effect; or
- (iii) cannot reasonably be carried into effect; or

(b) the beneficiaries are unascertainable; or

(c) any surplus revenue remains after making the payments required by section 21 after carrying into effect the intentions of the *waqif*,

the Commission may sell such property and pay the proceeds of the sale and the surplus referred to in paragraph (c) into a surplus account established by the Commission for that purpose.

(2) The Commission may deal with any funds from the surplus account by—

- (a) depositing them in a *sharia* compliant bank; or
- (b) investing them in such investments and securities as are allowed by Islamic law for the investment of trust funds,

and the income derived therefrom shall be utilised in the general administration of the Commission.

#### PART IV—FINANCIAL PROVISIONS

25. The Commission shall keep proper books of accounts of the income, expenditure, assets and liabilities of the Commission, and such accounts shall be audited in accordance with the Public Audit Act, 2015.

Accounts and audit.

No. 34 of 2015.

26. (1) The Commission may open and maintain such *sharia*-compliant bank accounts as may be required for the performance of the functions of the Commission

Bank accounts.



(2) The bank accounts referred to in subsection (1) shall be operated by the Director-General and any other officer of the Commission authorized in that behalf by the Commission.

27.(1) The Commission shall, before the thirtieth of September in each year, prepare an annual report for the immediately preceding financial year and submit it to the Attorney-General before the thirtieth November in that year. Annual Report.

(2) The annual report shall provide information regarding—

- (a) the activities of the Commission in the previous financial year;
- (b) the status of the *awqaf* under the management of the respective *waqf* trustees;
- (c) the status of *awqaf* vested in the Commission; and
- (d) the income, expenditure, assets and liabilities of the *awqaf*.

#### PART V—MISCELLANEOUS

28.(1) The Commission may charge fees— Fees.

- (a) at the rate of five per centum per annum of the revenue of the *waqf* property of a *waqf khairi*; or
- (b) ten per centum per annum of the revenue of the *waqf* property of a *waqf ahli*,  
for the management of the *awqaf* vested in the Commission.

(2) The fees charged under subsection (1) shall be paid into the general administration account of the Commission and shall be utilised by the Commission—

- (a) first in defraying the expenses of the management of the *awqaf*; and
- (b) the surplus shall be used for such charitable purposes as the Commission may determine.

(3) The fees prescribed under subsection (1) may be varied by a resolution for that purpose made by a majority of the members of the Commission present at a meeting of the Commission convened for that purpose and published in the *Gazette*

29. The Attorney-General may make rules for the better carrying out of the provisions of this Act.

Rules.

30.(1) The Wakf Commissioners Act is repealed.

Repeal of Cap.109 and Savings.

(2) Notwithstanding subsection (1)—

(a) all *waqf* property registered under the Wakf Commissioners Act (now repealed) shall be deemed to have been registered under this Act; and

(b) nothing in this Act shall affect any right, interest or estate in, or to, any property the title to which, whether vested or contingent, and whether in possession, reversion or remainder, accrued or was acquired before the commencement of this Act under any final judgment, order or decree of a court of competent jurisdiction.

31.(1) A person who, immediately before the commencement of this Act, was appointed the Secretary or a Commissioner of the Wakf Commissioners under the Wakf Commissioners Act (now repealed), shall remain in office so as to serve the remaining period of such Commissioner's term of office, after which a new Commissioner shall be appointed in accordance with the provisions of this Act.

Transitional provisions.

(2) Any proceedings, instruments or rights of appeal subsisting immediately before the commencement of this Act shall be deemed to be proceedings, instruments or rights under this Act.

(3) All immovable and movable property and assets which immediately before the commencement of this Act were vested in, or in the possession of the Wakf Commissioners under the Wakf Commissioners Act (now repealed) shall, by virtue of this section, vest in the Commission without further conveyance, transfer or assignment:

Provided that the Commission shall, within one year after the commencement of this Act, review the terms and conditions of all leases to property entered into by the Wakf Commissioners under the Wakf Commissioners Act (now repealed) and subsisting before such commencement.

(4) All rights, obligations and liabilities which immediately before the commencement of this Act were

vested in or imposed on the Wakf Commissioners under the Wakf Commissioners Act (now repealed) shall be deemed to be the rights, obligations and liabilities of the Commission under this Act.

(5) All references to the Wakf Commissioners appointed under the Wakf Commissioners Act (now repealed) in any agreement or instrument relating to any property, assets, rights, obligations or liabilities transferred under subsections (3) or (4) and subsisting immediately before the commencement of this Act, shall, unless the context otherwise requires, be read as references to Commission established under this Act.

(6) Any person who was a member of the staff of the Wakf Commissioners appointed under the Wakf Commissioners Act (now repealed), shall be deemed to have been appointed under this Act on the terms and conditions of service applicable to them immediately before the commencement of this Act.

## MEMORANDUM OF OBJECTS AND REASONS

The principal object of the Bill is to provide for the establishment of the *Waqf* Commission, the administration of *waqf* property, to repeal the Wakf Commissioners Act (Cap. 109 of the laws of Kenya) and for connected purposes. The Bill is divided into five Parts.

**Part I (clauses 1 – 4)** of the Bill consists of preliminary clauses. Clause 1 provides for the short title; clause 2 provides for the interpretation of key words and terms used in the Bill; clause 3 provides for the application of the Bill to the making and administration *awqaf* in Kenya and clause 4 provides for the validity of a *waqf* that is made in accordance with the provisions of the Bill.

**Part II (clauses 5 – 12)** of the Bill provides for matters relating to the establishment of the *Waqf* Commission, and composition, appointment, functions and remuneration of the members of the Commission. It also provides for the appointment of the Director-General and officers and staff of the Commission. Clause 5 provides for the establishment of the Commission as a body corporate; clause 6 provides for the composition of the Commission; clause 7 provides for the establishment of a selection panel for the appointment of members of the Commission; clause 8 provides for the functions of the Commission; clause 9 provides for the election of the chairperson of the Commission and the quorum required for meetings of the Commission; clause 10 provides for the remuneration of the members of the Commission; clause 11 provides for the appointment, qualifications and functions of the Director-General and clause 12 provides for the appointment of officers and staff of the Commission.

**Part III (clauses 13 – 24)** of the Bill deals with the management of *awqaf*. Clause 13 provides for the registration of *awqaf* with the Commission; clause 14 provides for the administration of *awqaf* registered by the Commission and clause 15 provides for inquiries into the administration by boards of trustees of *awqaf* registered by the Commission and the manner in which those inquiries shall be determined.

Clause 16 of the Bill provides for the requirement that trustees of *awqaf* shall surrender documents when required to do so by the Commission; clause 17 provides for the manner of dealing with any agreements made in respect of *waqf* properties; clause 18 provides that titles to *waqf* property shall not pass to any other person through adverse possession or the law of prescription and clause 19 provides for the requirement that *waqf* property shall be administered in accordance with the intentions of the *waqif*.

Clause 20 of the Bill provides for the manner by which *waqf* property may be disposed of by the Commission; clause 21 provides the manner by

which the Commissioner shall deal with the unclaimed property of deceased Muslims; clause 22 limits the proportion of the property related to a *waqf* that may be used by the Commission for the purposes of the *waqf*; clause 23 provides for the establishment of a maintenance and reserve account by the Commission for the purposes of a *waqf* and clause 24 provides for the establishment of a surplus account in respect of a *waqf* into which surplus funds relating to a *waqf* may be paid.

**Part IV (clauses 25 to 27)** of the Bill provides for the financial provisions. Clause 25 provides that the accounts of the Commission shall be audited in accordance with the Public Audit Act, 2015; clause 26 provides that the Commission may open and maintain *sharia*-compliant bank accounts for the purposes of the Commission and clause 27 provides for the preparation and submission of the annual report of the Commission.

**Part V (clauses 28 – 31)** of the Bill provides for miscellaneous matters. Clause 28 provides for the charging of fees, by the Commission in respect of different kinds of *awaqf* registered by the Commission; clause 29 provides for the power of the Attorney-General to make rules under the Bill; clause 30 provides for repeal of the Wakf Commissioners Act (Cap. 109) and savings in respect of certain matters related to the Wakf Commissioners Act and clause 31 provides for transitional matters including appointments that were made under the Wakf Commissioners Act, any proceedings initiated under the former Act, and the staff or officers appointed under the former Act.

#### **Statement on the delegation of legislative powers and limitation of fundamental rights**

The Bill does not limit fundamental rights or freedoms but it delegates legislative power to make subsidiary legislation to the Attorney-General

#### **Statement on whether the Bill concerns county governments**

The Bill does not affect the functions and powers of county governments set out in the Fourth Schedule to the Constitution.

#### **Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution**

The enactment of this Bill may occasion the additional expenditure of public funds.

Dated the 8th October, 2019.

ADEN DUALE,  
*Leader of the Majority Party.*

