

Key Recommendation by the Joint Committee on the Waqf Amendment Bill

- i. A new Clause (2A) has been suggested to be added to Section 2 of the Act. This change clearly separates trusts from waqf. If a Muslim creates a trust under any law, it will not be considered waqf. This will allow any Muslim communities to manage their own trusts without interference from the Waqf Boards, whether these trusts were created before or after the commencement of this Act.
- ii. Clause 3, Section 3 (r): A person can only dedicate property to waqf if he is a practising Muslim and legally owns it and has the right to transfer it. The dedication must be honest and without malafide. In 2013, the law was changed to allow any person to create a waqf, not just practicing Muslims. The new amendment returns to the old rule, allowing only Muslims (who have been practicing Islam for at least 5 years) to create a waqf.
- iii. Clause 3, Section 3 (r) (i) : The proposed change removes waqf by user from the definition of Waqf. However, taking into consideration the submissions made by the stakeholders and witnesses, waqf by user properties that are already registered with the Waqf Boards shall continue to be covered under the provisions of the Waqf Act unless there is a dispute or the property belongs to the government.
- iv. Clause 3, Section 3 (r) (iv) and Clause 4 Section 3A (2) :In waqf-alal-aulad (family waqf) women's inheritance rights will be protected. A waqif can dedicate a property only after ensuring that women heir received their legitimate share. Additionally, the scope of benefit from such waqf is expanded for maintenance of widows, divorced women, and orphans, if so intended by the waqif.
- v. Clause 4, Section 3B (1) :On and from the commencement of the Waqf (Amendment) Act, 2025 the Mutawalli of each registered Waqf shall file the details on the central portal, within six months. This will help make the

management of waqf properties more transparent. If required, the Waqf Tribunal can give more time for the digitization process.

- vi. Clause 4, Section 3C (1) :For government properties that have been declared as waqf, an officer above the rank of Collector, appointed by the State Government, will investigate and submit a report to the government. Until then, these properties will not be treated as waqf.
- vii. Clause 4, Section 3C (2):The change from the Collector to a designated officer ensures fairness in the process, because in many cases, the Collector is responsible for government land and may be representing the government in legal matters. This provision helps protect and confirm the status of government land.
- viii. Clause 6, Section 5 (2A):Sufficient time i.e. from 15 days to 90 days is given to the State Government to upload the notified list after of Auqaf on the portal and database after the completion of survey.
- ix. Clause 7, Section 6 (1): allows people to file a case if there is a dispute about whether a property listed under Section 5(2) is a waqf property or not or whether it is a shia waqf or sunni waqf.
- x. Clause 9, Section 9: As of now the Central Waqf Council comprises of 21 members with the Minister in-charge of Waqf as ex-officio Chairperson. The Waqf (Amendment) Bill included the AS/JS dealing with Waqf matters as ex-officio member of CWC. Further provision was also made for including two non-Muslim members on the CWC. JCWAB has made a minor change by excluding ex-officio members while counting two non-Muslim members. The composition of the CWC will now be 22 members.

- xi. Clause 10, Section 13 (2A): The State Government may establish separate waqf Boards for Bohras and Aghakhanis communities, acknowledging their distinct religious needs.
- xii. Clause 11, Section 14: As of now the State Waqf Boards comprises of 12 members. The Waqf (Amendment) Bill included the JS dealing with Waqf matters in the state as ex-officio member of SWB. Further provision was also made for including two non-Muslim members on the SWB. JCWAB has made a minor change by excluding ex-officio members while counting two non-Muslim members. The composition of the SWB will now be 11 members. The Waqf Act, 1995 includes non-Muslim stakeholders like beneficiaries, donors, lessees, tenants, and litigants. To better represent their rights and improve the composition of the Board, the amendment adds provisions for two non-Muslim members.
- xiii. Clause 12, Section 16: Disqualifies non-Muslim from being member of the Board. As the Waqf (Amendment) Bill, 2024 provides for inclusion of two non-Muslim members therefore, the following consequential changes are being made in Section 16 of the Act. Clause (a) of Section 16 of the Act will be replaced with the following:
 - (a)The person is under twenty -one years old.
 - (aa) In the case of a member under clause (c) of Section 14(1), the person is not a Muslim.
- xiv. Clause 18, Section 36(10) : Waqf (Amendment) Bill, 2024 inserted sub-section 10 barring unregistered Waqf from enforcing their rights through legal proceedings in any Court after expiry of six months from the commencement of the Waqf (Amendment) Act, 2025. JCWAB gives extra time beyond the six months to ensure that the Mutawalli or Board has a fair opportunity to seek legal help.
- xv. Clause 33, Section 72: The reduction of the annual contribution from 7% to 5% allows mutawallis to keep more funds for religious, charitable, or pious

activities. The Central Government now has the authority to set the maximum amount of contribution that needs to be paid to the Board.

- xvi. Clause 35, Section 83: The selection process for Tribunal members has been expanded, and a fixed tenure has been introduced to ensure stable functioning. Initially, the Bill proposed a two-member Tribunal, but the committee recommended keeping it as a three-member Tribunal for better functioning. One of the members must have knowledge of Muslim law and jurisprudence. The Waqf Tribunal will now include both serving and retired officials each serving for five years or until they reach 65 years of age, whichever comes first.
- xvii. Clause 36, Section 84: As the Act already provides for expeditious proceedings and decisions by the Tribunal, JCWAB recommended for omission of clause 36.
As per Section 84 of the Act,” shall hold its proceedings as expeditiously as possible and shall as soon as practicable, on the conclusion of the hearing of such matter give its decision, in writing and furnish a copy of such decisions to each of the parties to the dispute.”
- xviii. 18. Clause 37, Section 91: Retaining original time for allowing three months time by the Waqf Board to appear and plead as a party to the proceeding before the collector under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 at any time within a period of three months from the date of receipt of such notice.
- xix. Clause 40A, Section 107: Omission of Section 107
Existing provision: Act 36 of 1963 not to apply for recovery of waqf properties: Nothing contained in the Limitation Act, 1963 (36 of 1963) shall apply to any suit for possession of immovable property comprised in any waqf or for possession of any interest in such property.

This is expected to help in reducing litigation and will also make Waqf Board more vigilant in safeguarding waqf properties.

The names of the following Act have been substituted as:-

- (i) “Indian Penal Code, 1860” as “Bharatiya Nyaya Sanhita, 2023 (BNS)”.
- (ii) “The Indian Evidence Act, 1872” as “The Bharatiya Sakshya Bill, 2023 (BSB)”.
- (iii) “The Land Acquisition Act, 1894” as “The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013”
- (iv) “Code of Criminal Procedure, 1973” as “Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)”.