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CYPRUS

EVCAF AND VAKFS

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CHAPTER 337.

EVCAF AND VAKFS.

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A LAW TO AMEND AND CONSOLIDATE THE MOSLEM SACRED LAW RELATING TO VAKFS AND THE LAW RELATING TO THE ADMINISTRATION OF MOSLEM RELIGIOUS PROPERTY.

[22nd October, 1955.]

52 of 55.
18 of 57.
27 of 59.

1. This Law may be cited as the Evcaf and Vakfs Law. Short title.

PART I.

PRELIMINARY.

Interpreta-
tion.

2. In this Law, unless the context otherwise requires—

“ beneficiary ” means any person or class of persons who are to benefit by the object of the vakf;

“ Court ” means the Supreme Court;

“ charitable purpose ” or “ charity ” means any purpose for the relief of poverty, the advancement of education, the advancement of religion or any other purpose beneficial to the moslem Turkish community;

“ dedication of vakf ” means the written declaration by the owner of any specific property that he has dedicated the property to be vakf;

“ dedicator ” means the owner of the property, the subject of a vakf;

“ Director ” means the Director of Evcaf appointed under the provisions of this Law;

“ High Council ” means the High Council of Evcaf established under the provisions of this Law;

“ immovable property ” includes—

(a) land;

(b) buildings and other erections, structures or fixtures affixed to any land or to any building or other erection or structure;

(c) trees, vines and any other thing whatsoever planted or growing upon any land and any produce thereof before severance;

(d) springs, wells, water and water rights whether held together with, or independently of, any land;

(e) easements, privileges and liberties over any immovable property and rights restrictive of the use of any immovable property which either lawfully subsists or, though not subsisting, are required to be created for the purposes of any scheme;

(f) an undivided share in any property hereinbefore set out;

“ Judge ” means a judge of a Turkish Family Court;

“ Mazbuta vakfs ” includes—

- (a) all vakfs known or recognized, prior to the coming into operation of this Law, as Mazbuta;
- (b) all vakfs known or recognized, prior to the coming into operation of this Law, as Mulhaka non Meshrouta, not being the property of any mosque or other moslem religious institution;
- (c) all vakfs, the administration (mutevelliship) of which is dedicated or entrusted to a public body or the holder of any office;
- (d) all vakfs which have lost their charitable character for any reason whatsoever;
- (e) all other properties vested in, or administered by, the Delegates of Evcaf before the commencement of this Law; including the vakf known as the Telalié Privileged Vakf; ^{2 of 18/57.}

“ mosque ” includes mesdjid;

“ Mufti ” means the Mufti elected under the provisions of the Turkish Religious Head (Mufti) Law, or any other Law amending or substituted for the same, and functioning as such for the time being; ^{Cap. 340.}

“ Mulhaka vakfs ” includes—

- (a) all vakfs known or recognized, prior to the coming into operation of this Law, as Mulhaka Meshrouta vakfs;
- (b) all vakfs, the administration (mutevelliship) of which is dedicated to any person nominated in the vakfieh or under its provisions;
- (c) all vakfs administered by the community through elected or selected representatives;
- (d) all vakfs the beneficiaries of which are groups of persons in a trade, business or calling;

“ object of the vakf ” means the purpose to which the owner declares that the profits or income or benefit of the subject of the vakf shall be devoted;

“ owner ” in relation to any immovable property means the person registered or entitled to be registered in the books of the District Lands Office as the owner thereof;

Registra-
tion of
vakfieh, etc.

9. (1) The dedicator or his duly authorized agent shall present the vakfieh to a Judge within the jurisdiction of whom he resides or the subject of the vakf is situated.

(2) The Judge shall file the vakfieh and shall give notice thereof to the Director of Lands and Surveys and to the Director by forwarding copies of the vakfieh to each of them certified by him as true copies.

(3) If within ten days (or such longer period as the Judge may allow in any particular case) from the receipt of such notice neither the Director of Lands and Surveys nor the Director inform the Judge of any impediment for the registration of the vakfieh the Judge shall register the vakfieh and give notice of the fact to the Director of Lands and Surveys, the Director and the dedicator accordingly.

(4) If the Director of Lands and Surveys, or the Director, on receiving the copy of the vakfieh as aforesaid is of opinion that any impediment exists he shall inform the Judge accordingly.

(5) (a) On receipt of any notification from the Director or the Director of Lands and Surveys under subsection (4), the Judge shall cause a notice to be served upon the dedicator or his duly authorized agent and all other persons interested, if any, calling upon them to appear before him and show cause why the vakfieh should be registered. The Director and the Director of Lands and Surveys shall be given notice accordingly.

(b) The Judge, upon hearing all the parties, shall order according to the merits of the case before him; and where he orders that the vakfieh be registered, he shall register the same and give notice of the fact to the Director of Lands and Surveys, the Director and the dedicator accordingly.

(6) Notice of the registration of a vakf shall be published by the Director in at least one Turkish newspaper giving the name of the vakf and particulars of the subject of the vakf:

Provided that non-compliance with this subsection shall not in any way affect the validity of the vakf.

(7) Upon the registration of a vakfieh, as in this section provided, the subject of the vakf shall cease to belong to the dedicator and shall for all intents and purposes be considered as vakf.

(8) Any person aggrieved by the registration of a vakfieh may, subject to any Rules of Court made under this Law, apply to the Court for cancelling or varying the registration and the Court may, on hearing all the interested parties, make such order as it may deem fit.

10. (1) Subject to the provisions of subsections (2) and (3) a dedication of vakf may be made by will if the conditions laid down in section 4 are fulfilled. Dedication by will.

(2) Where the dedicated property exceeds in value the disposable portion, the dedication of any property in excess shall not be valid unless the heirs consent thereto.

(3) Where any beneficiaries under the vakf are the heirs of the testator, no direction of the testator for the division of the income otherwise than in proportion of their hereditary share shall be of any effect unless such heirs consent thereto.

(4) On the probate of a will whereby a dedication of vakf is made, such will shall be registered in accordance with the provisions of section 9, which shall apply *mutatis mutandis* to such will as if it were a vakfieh.

11. A vakfieh registered under the provisions of section 9 shall be deemed to be irrevocable, and the dedicator of the vakf shall have no power to rescind such vakf: Vakfieh irrevocable.

Provided that the dedicator may alter or amend the terms of any vakfieh if he has reserved to himself such power therein:

Provided further that any such alterations or amendments shall be subject to registration in accordance with the provisions of section 9.

12. Subject to the ultimate benefit being, expressly or impliedly, reserved for any charitable purpose, provisions may validly be made in a declaration of vakf— Life interests and limited estates under vakf.

(a) 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 vakf or the making of vakfieh the said persons are not in being;

(b) for the maintenance and support wholly or partially of the family, children, or descendants of the dedicator or the maintenance of the dedicator himself during his lifetime or for the payment

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 consist of a class of persons who are individually identified they are entitled to the benefit of the vakf equally amongst themselves, and if one of them dies his share goes to the poor and the remainder to the survivors.

(3) Where a vakf is for the benefit of a person's son and his children, and the children of his children for ever, 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) Where a vakfieh purports to be in favour of the children of a named person and in default of them, in favour of the poor or other ultimate charity, and some children die, the survivors are entitled to the whole of the profits of the vakf property:

Provided that 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 a vakfieh provides that the beneficiaries should take specified shares consisting of fractions of the total income of the vakf property—

(a) if the said fractions added together amount to more than unity, the share of each beneficiary abates proportionately;

(b) if there is any residue left after giving them their specified shares, then such residue is divided amongst each of the beneficiaries in equal shares provided that the intention is shown to give the whole of the income of the vakf property to the said beneficiaries.

Lapse of
shares of
beneficiaries.

20. (1) In the absence of anything showing a contrary intention the interest of a beneficiary shall lapse on his death and shall accrue to the benefit of the poor or other ultimate charitable object of the vakf.

(2) Where it is provided, either expressly or impliedly, in a vakfieh that the descendants of the beneficiaries thereunder shall succeed to the respective interests of the said beneficiaries, and there is nothing to show a contrary

intention, the said descendants shall succeed per stirpes and not per capita, and males and females shall take equal shares.

21. (1) Where a vakf which exhibits a general charitable intention either—

(a) specifies no particular mode of application, or

(b) specifies a particular mode of application which has failed or become impracticable,

the property may, by order of the Court, be devoted to charitable objects as near akin as possible to the intention of the dedicator.

Court to give effect to charitable objects where possible.

(2) The making of a declaration of vakf shall be conclusive evidence of a general charitable intention.

PART IV.

NATURE OF VAKF.

22. A dedication by way of vakf shall be in perpetuity: Provided that in cases where a vakf 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 shall be given to it accordingly.

Vakf must be in perpetuity.

23. On the registration of a vakfieh under section 9, the subject of the vakf cannot thereafter, subject to the provisions of this Law, be alienated or transferred either by the dedicator or the Mutevelli nor may their heirs take it by way of inheritance.

Vakf inalienable.

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

Action to set aside unlawful alienation of vakf.

25. (1) A vakfieh may validly empower the dedicator to exchange any land forming the subject of the vakf for other land, or to sell the land and to purchase other land of equivalent value in exchange therefor:

Reserved power of exchanging the subject of the vakf.

Provided that the dedicator may not validly exchange or sell the vakf land except in strict accordance with the terms of the vakfieh.

(2) The land taken in exchange or purchased as in subsection (1) provided, shall become subject of the vakf and shall be registered in accordance with the provisions of section 9.

PART V.

APPLICATION OF THE INCOME OF VAKF PROPERTY.

Priority of application of income

26. (1) The benefit or income or proceeds of the vakf property shall be applied for the following purposes in the following order:—

- (a) for the maintenance and repair of the subject of the vakf;
- (b) for the specified object of the vakf;
- (c) for that which is necessary for the general purpose of the specified objects;
- (d) for any other charitable object.

(2) In this section “ maintenance and repair ” mean the preservation of the vakf property in the state in which it is at the time when it is dedicated, improvements to the property not being included.

(3) Where the repairs of the subject of vakf are not made the first charge on its income or proceeds, the Court may, on the application of the Attorney-General or of any interested person, order that the said income or proceeds shall be suspended from being applied to the objects specified in the vakfieh and that the necessary repairs be made therefrom.

Failure of some objects.

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

(2) Where a vakf is created for mixed purposes, some of which are unlawful or prohibited by Islam (hereinafter referred to as “ unlawful purpose ”), effect shall be given to those purposes which are lawful and, so much of the property as is dedicated for the unlawful purpose shall revert to the dedicator or his personal representatives:

Provided that where the property so dedicated is immovable property which cannot be divided such property shall be sold by public auction and the proceeds of the sale shall be divided proportionately between the vakf and the dedicator or his personal representatives.

(3) When in construing the terms of a vakfieh the beneficiaries or its object are found to be not in existence, the benefit of the vakf property shall be given to the poor, provided that if at any time thereafter, the said beneficiaries or the object come into existence, such beneficiaries or object shall be entitled to the said benefit.

(4) Where the beneficiaries consist of a number of persons, and—

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

(b) if some of them disclaim and others accept it, then—

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

(ii) if the beneficiaries are named or otherwise specifically identified in the vakfieh, the share in the benefit of those who disclaim shall be used for the benefit of the poor.

PART VI.

APPOINTMENT OF MUTEVELLI AND MANAGEMENT OF THE EVCAF PROPERTY.

28. The dedicator may provide in the vakfieh for the appointment of a person or persons to act as the manager or administrator of the vakf, in this Law referred to as "the Mutevelli," and of a successor or successors to such Mutevelli, and may specify the conditions on which, the manner in which, the period for which, and the person by whom, the Mutevelli and his successors may be appointed:

Provision by dedicator as to Mutevelli.

Provided that where a Mutevelli is resident outside the Colony the High Council shall be the Mutevelli for all intents and purposes.

29. (1) A Mutevelli shall be appointed for the management or administration of every Mulhaka vakf.

Competent persons to be appointed as Mutevellis.

(2) A Mutevelli shall have power to do all acts which are reasonable and proper for the protection of the vakf property and for the management or administration of the vakf property.

(3) Subject to subsection (4), the following persons if of

sound mind and not incapacitated in any way may be appointed as Mutevellis:—

- (a) any person appointed by the dedicator to be a Mutevelli;
- (b) the descendants of any person appointed by the dedicator to be a Mutevelli;
- (c) the dedicator himself;
- (d) the children or descendants of the dedicator of the vakf;
- (e) any other person who is a moslem:

Provided that in cases where the Mutevelli has to perform religious or spiritual functions which cannot be performed by a female, a female shall not be appointed.

(4) Where the office of Mutevelli devolves upon a person who is a minor or of unsound mind or in any other way incapacitated from acting, the Court may appoint another Mutevelli to act in his place during such incapacity.

Appoint-
ment and
removal of
Mutevellis.

30. (1) In the absence of any express provision in the vakfieh for the appointment of successive Mutevellis—

- (a) the dedicator is entitled to make the appointment;
- (b) after the death of the dedicator the High Council, with a majority vote, may appoint a Mutevelli.

(2) A Mutevelli once appointed cannot be removed by the dedicator unless there is specific provision therefor in the vakfieh.

(3) A Mutevelli who has accepted his duties cannot be released from his office unless he submits true and proper accounts to the satisfaction of the High Council.

(4) A Mutevelli who is found to be incapable or unfit to administer the vakf may be removed, subject to any Regulations, by a decision of the High Council:

Provided that removal from any one mutevelliship automatically entails the removal of the same person from any other mutevelliship which he may be holding.

(5) A Mutevelli who has been removed from his office in accordance with subsection (4), or any person aggrieved by the appointment or dismissal of a Mutevelli under this section, may appeal to the Court.

Remunera-
tion.

31. (1) Subject to subsection (3), provision may be made in the vakfieh authorising a Mutevelli or his successors to

receive such remuneration as may be specified therein. In the absence of such a provision or in any case of hardship, the Judge shall have power, upon an application made to that effect, to fix the remuneration of a Mutevelli:

Provided that, in the absence of anything to the contrary, the remuneration specified in the vakfieh shall be payable to the first Mutevelli, the succeeding Mutevellis becoming entitled thereto upon an order of the Judge only.

(2) The Mutevelli may lawfully take from the income of the vakf such remuneration as the dedicator or the Judge may have authorised him to receive.

(3) The remuneration of a Mutevelli shall not exceed one-tenth of the income of the vakf where the Mutevelli has no beneficial interest in the subject of the vakf:

Provided that the Judge may, upon a review of the funds and surplus available, increase the said remuneration as he may think fit.

32. (1) The Mutevelli may, if authorised so to do by the terms of the vakfieh, or where it is necessary or in accordance with the usual course of business so to do, employ an agent for the administration of the vakf. Agents of Mutevelli.

(2) The authority of the agent ceases on the death or removal of the Mutevelli appointing him.

33. In the absence of any express provision to that effect in the vakfieh, the Mutevelli as such shall not borrow any money for any purpose, whatsoever save by an order of the Court given on consideration of the case and upon the recommendation of the High Council: Borrowing power of Mutevelli.

Provided that he may borrow such sums as the Judge may authorise him to do for the payment of Government taxes.

34. (1) The Mutevelli shall not sell or mortgage the vakf property in the absence of any provision in the declaration of vakf authorising him to do so: Restrictions on sale or mortgage.

Provided that the Court may order the sale of vakf land if satisfied that it has become unfit for the objects of the vakf.

(2) Any Mutevelli acting without such authority shall be deemed to be guilty of a breach of trust for which he may be removed by an order of the Court.

35. (1) The Mutevelli of a vakf may grant a lease thereof for a period of one year and subject to the approval of the Power to lease.

High
Council.

43. (1) For the purpose of controlling the Evcaf Office and superintending and administering the vakf property there shall be established a Council, to be called the " High Council ", consisting of the Mufti and the Turkish appointed member of the Executive Council for the time being, as *ex officio* members, and fifteen other duly qualified members elected (hereinafter in this Law called " the elected members ") in accordance with the provisions of Part I of the First Schedule and by the persons therein provided:

First
Schedule
Part I.

Provided that if any Legislative Assembly shall be established hereafter an elected Turkish member thereof chosen by the elected Turkish members of such Assembly shall be an *ex officio* member of the High Council during the period he continues to be an elected member of such Assembly.

(2) No person shall be elected as a member of the High Council unless he is a member of a Village Mosque Committee of the District in respect of which he is to be elected and is in possession of a leaving certificate of a Turkish Lycée or College or other secondary school of equal status.

(3) Every elected member of the High Council shall hold office for four years from the date of his election but he may resign upon giving notice in writing to the Chairman of the High Council:

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Provided that the elected members of the High Council first elected under the provisions of this Law shall, without prejudice to their right to resign under the provisions of this section, hold office for six years from the date of election.

(4) The High Council shall, at its first meeting held after the election of the elected members, elect by a majority vote from amongst its members a Chairman and a Deputy Chairman.

The Chairman, and in his absence the Deputy Chairman, shall exercise all the powers and duties conferred upon him under this Law:

Provided that if any vacancy occurs in the office of the Chairman or the Deputy Chairman the members of the High Council shall elect from amongst themselves another Chairman or Deputy Chairman of the Council to hold office for the unexpired term of office of the elected members.

(5) The Chairman, Deputy Chairman or an elected member of the High Council may at any time resign his office by a written notice of resignation signed by him to be delivered to the Director, who shall submit it forthwith to the High Council.

(6) Any elected member of the High Council shall vacate his office if he shall, without the leave of the Chairman, or in the case of the Chairman without the leave of the Deputy Chairman, be absent from three consecutive meetings of the High Council.

(7) If any vacancy occurs in the office of any elected member before the expiration of his term of office the vacancy shall be filled by the election in accordance with the provisions of subsection (1) of another duly qualified person to fill the vacancy for the unexpired term of office of such member.

(8) The High Council may act notwithstanding any vacancy in its membership.

44. (1) The quorum at all meetings of the High Council shall be nine members present in addition to the Chairman.

Quorum of and procedure at meetings of the High Council.

(2) The Chairman, and in his absence the Deputy Chairman, or in the absence of both a member elected for the purpose by the members present at that meeting from themselves, shall preside at the meeting:

Provided that when the votes of the members present with regard to any question are equally divided the presiding member shall have a casting vote in addition to his own.

(3) The High Council may make standing orders regulating its own procedure generally, and, in particular, regarding the holding of meetings, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes and the opening, keeping and closing of accounts:

Provided that until such standing orders are made the Regulations contained in Part II of the First Schedule shall regulate such meetings and the proceedings thereat.

First Schedule Part II.

45. (1) The High Council shall appoint from amongst its members a Chairman and seven members (two from Nicosia and one from each other District including Lefka) to constitute an executive committee to exercise all or any of its powers under this Law except the power of—

Executive Committee of High Council.

- (a) approval of the annual estimates;
- (b) borrowing any sum exceeding two thousand pounds;
- (c) developing vakf property when the amount involved exceeds two thousand pounds;
- (d) leasing any vakf property for a period exceeding two years.

(2) The quorum at all meetings of such executive committee shall be four members in addition to its Chairman

- with the terms of the vakfieh, and for that purpose shall have access to the vakf property;
- (d) supervise the finances of all vakf property and require the submission each year of properly kept and audited accounts relating to every vakf;
 - (e) publish, subject to the provisions of this Law, an annual report upon the financial position of Mazbuta vakfs, the Evcaf Office and other vakf property;
 - (f) keep a register of all vakfs;
 - (g) apply to the Court in any of the cases provided for in section 55;
 - (h) subject to any Regulations made under this Law, appoint fit and proper persons to the departmental staff of the Evcaf Office and dismiss the same;
 - (i) subject to section 30 appoint and dismiss Mutevellis and all such other persons for various duties in connection with Mulhaka vakfs;
 - (j) pending the appointment of a Mutevelli administer any vakf and during the absence of a Mutevelli from the Colony appoint such other fit and proper persons to act for him:

Provided that any person aggrieved by the appointment of any person under this paragraph may apply to the Court for redress and the Court, after hearing all parties interested, may make such order as it may deem fit;

- (k) supervise any Village Mosque Committee and approve its annual estimates;
- (l) supervise and control the execution of all moslem religious trusts and endowments;
- (m) prepare, approve and carry out any scheme for the development of any vakf property and for that purpose borrow from any bank, corporation or any other person any money and for the purpose of securing the payment of the principal and interest of any such loan to mortgage or charge the revenue of such vakf to the lender;
- (n) on the application of any interested person effect exchanges (istibdal) of any vakf immovable property where such exchange will, in its opinion, benefit the vakf:

Provided that no such exchange of a property, the value of which is more than one thousand pounds, shall be effected without the approval of a Judge of the Supreme Court.

(2) The High Council shall perform its administrative functions through the Director.

50. (1) A Village Mosque Committee shall, subject to the overriding supervision, control and direction of the High Council—

Functions of Village Mosque Committees.

(a) establish and maintain any mosque in its village and pay any salaries and other remuneration of their personnel appointed by the Mufti under paragraph (a) of section 6 of the Turkish Religious Head (Mufti) Law;

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(b) manage and control the properties belonging to or dedicated for the benefit of any mosque of its village and keep and render such accounts as the High Council may require it so to do.

(2) A Village Mosque Committee shall bear the name " Village Mosque Committee of *(inserting the name of the village concerned)*."

51. (1) The Director shall be appointed by the High Council:

Provided that no person shall be appointed as Director unless he is a male moslem of the Turkish race and the holder of a leaving certificate of a Turkish Lycée or College or other secondary school of equal status, and has, in the opinion of the High Council, a sound knowledge of Turkish, English and accountancy.

Appointment and functions of Director.

(2) It shall be the duty of the Director—

(a) to see that any decision of the High Council is duly executed;

(b) where such decision necessitates the expenditure of any Evcaf funds, to see that the expenditure is in accordance with the estimates as approved by the High Council.

(3) The Director may employ at the current rate of daily wages any servants or labourers required in the service of the Evcaf Office to carry out any work for which provision is made in the current estimates, as approved by the High Council.

removed from office except on grounds of dishonesty, negligence, inefficiency, or abolition of office.

(5) If from any cause any officer of the Evcaf Office is temporarily unable to perform the duties of his office, the High Council may appoint a deputy to hold such office during the pleasure of the High Council.

(6) The High Council shall require every person appointed under this section to give such security as they think proper for the due execution of the duties of his office.

(7) Every officer appointed under this section shall at such times during the continuance of his office or within one month after his ceasing to hold it and in such manner as the High Council may direct, deliver to the Council a true account in writing of all matters committed to his charge and of his receipts and payments together with vouchers, and a list of persons from whom money is due to the Council in connection with his office, showing the amount due from each person; and shall pay all moneys due from him to the Director or otherwise as the Council may direct:

Provided that, if any such officer refuses or wilfully neglects to deliver any account or list which he ought to deliver or any voucher, book or document relating thereto, or to make any payment which he ought to make, the President of the District Court of the District where such office is situated, may, upon application of the Director and upon such terms and conditions as to such President seem fit, require him to make such delivery or payment or to give such satisfaction as the President, District Court, may direct.

Any sum so ordered to be paid shall be deemed to be a judgment debt and execution may forthwith issue with respect thereto.

(8) No member of the High Council or a Village Mosque Committee and no officer or servant of the Evcaf Office shall be concerned directly or indirectly by himself, his wife, children or partner in any contract or work made with or executed for the Evcaf Office. If any such member, officer or servant be so concerned, he shall vacate office and shall be incapable of holding any office or employment in the Evcaf Office, and shall be liable, on summary conviction, to a fine not exceeding twenty-five pounds:

Provided that being a shareholder in a company which is a party to any contract with, or executes any work for, the Evcaf Office shall not be covered by the above subsection.

57. The High Council shall, with the approval of the Governor, make Regulations, to be published in the Gazette, to provide for the establishment and constitution of a scheme for the payment of such pensions and gratuities to such officers and servants of the Evcaf Office or Mosque officials and upon such terms and conditions as may be specified in the Regulations.

Pensions
and
gratuities.

PART X.

ESTIMATES, FINANCE AND ACCOUNTS.

58. (1) The annual estimates of the revenue and expenditure of the Village Mosque Committees shall be prepared and submitted to the High Council for approval in accordance with the provisions of this Law and of any Regulations made thereunder.

Annual
estimates
and
accounts.

(2) The High Council shall prepare, approve and, not later than fifteen days before the commencement of the financial year to which they relate, publish the general estimates of the revenue and expenditure of Mazbuta vakfs and of the Evcaf Office.

(3) The financial year of the Evcaf Office shall begin on the first day of January.

(4) The books and accounts kept by the High Council shall be subject to audit by the Director of Audit or such other person as he may appoint.

(5) The auditor's report shall, within one month of its submission, be published by the High Council.

(6) The financial report provided by paragraph (e) of subsection (1) of section 49 shall be published by the High Council not later than the month of May of the financial year to which it relates.

PART XI.

FINANCIAL PROVISIONS IN RESPECT OF MOSQUES AND VILLAGE MOSQUE COMMITTEES.

59. (1) The High Council shall, from the approved annual estimates of the Village Mosque Committees, calculate, after taking into consideration any grants to be made to such

Religious
Tax.

PART XII.

MISCELLANEOUS.

Contracts.

61. (1) Contracts on behalf of the Evcaf Office shall be made in writing under the seal of the Office and the hand of the Chairman and any two members of the High Council authorised by the Council in that behalf:

Cap. 149.

Provided that contracts incidental to the ordinary conduct of the current business of the Office may, subject to the provisions of the Contract Law, be made in writing or parol, as the case may be, on behalf of the Office by the Director:

Provided also that contracts the duration of which will exceed the duration of the High Council making the same shall be subject to the approval of a Judge of the Supreme Court.

(2) All contracts made in accordance with this section shall be effectual in law and shall bind the Evcaf Office and the High Council for the time being and all other parties thereto, their heirs, executors, or administrators, as the case may be.

(3) Nothing in this section shall be deemed to affect the validity of any contract made on behalf of the Evcaf Department before the coming into operation of this Law.

Rules of Court.

62. The Governor may, with the advice and assistance of the Chief Justice, make Rules of Court regulating the practice and procedure and prescribing the fees to be paid in connection with any matter had or taken under this Law.

Regulations.

63. The High Council may, with the approval of the Governor, make Regulations, to be published in the Gazette, for the better carrying out of this Law into effect and, without prejudice to the generality of the power hereby conferred, Regulations may be made for all or any of the following matters:—

- (a) to regulate all matters relating to the administration of vakf property;
- (b) to prescribe the fees and fix the charges to be taken by the Evcaf office;
- (c) to prescribe the posts in the Evcaf office and the

conditions of service, appointment, promotion, leave and dismissal of the officers;

- (d) for any matter for which Regulations are required or authorised under this Law to be made.

64. Any appointment made, act done or public instrument made, under the Law hereby repealed* shall, until revoked, cancelled or varied by any appointment, act or public instrument made or done under the provisions of this Law, be deemed to have been made or done under the provisions of this Law. Saving.

FIRST SCHEDULE.

PART I. (Section 43.)

1. For the purposes of this Part—

“Commissioner” means the Commissioner of the District and includes an Assistant Commissioner;

“Committee” means a Village Mosque Committee of a village within the District;

“village” has the same meaning as in subsection (5) of section 46.

2. (1) The Commissioner shall, within twenty days from the date of the coming into office of the Committee of his District, convene in the principal town thereof a meeting of all the Chairmen of the Committees of the District for the purpose of electing two members of the High Council:

Provided that—

(a) the subdistrict of Lefka shall be considered for the purposes of this paragraph as a District and the village of Lefka as the principal town thereof;

(b) the number of members to be elected for the District of Nicosia (excluding the subdistrict of Lefka) shall be three instead of two.

(2) The Commissioner shall, for this purpose, send, by prepaid post, a ten days' prior notice to every Chairman of every Committee in the District of the time, date and place of the meeting provided by paragraph (1) of this Regulation.

3. The Commissioner shall preside at any meeting convened in accordance with Regulation 2 and, unless more than one-third of the aggregate number of Chairmen of the Committees of the District are present, no business shall be transacted but the meeting shall stand adjourned to the same place, time and day of next week when the business of the meeting shall proceed irrespective of the number of the Chairmen present.

4. The Commissioner, at any meeting held under the provisions of Regulation 3 at which the requisite number of Chairmen are present, shall ask them to elect by secret ballot the requisite number of members of the High Council.

*The Evcaf Law, 1949, Cap. 259.

5. The election shall be carried out by secret ballot and the provisions of the Second Schedule relating to the election of Village Mosque Committees shall apply *mutatis mutandis* to any such voting, counting of votes and result of the election.

PART II.
(Section 44.)

1. In this Part—

“Chairman” means the Chairman of the High Council and includes its Deputy Chairman.

2. (1) The Chairman may, whenever he thinks fit, and shall, on a requisition in writing by not less than four members of the High Council, convene a meeting of such Council:

Provided that the meeting in case of requisition shall be held not later than fourteen days from the date of the receipt of such requisition and on a prior seven days' notice.

(2) If the Chairman fails to convene a meeting within fourteen days from the date of the requisition in writing as provided in paragraph (1) of this Regulation, the requisitionists, or any of them, may convene a meeting of the High Council, in the same manner, as nearly as possible, as that in which the meetings of the High Council are convened by the Chairman.

No meeting convened under this paragraph shall be held unless all the requisitionists attend the meeting and if they do not so attend no meeting shall be held.

3. Eight days at least before any meeting of the High Council a summons to attend the meeting specifying the business to be transacted thereat and signed by the Chairman, or, in the case of a meeting convened by the requisitionists under paragraph 2 of Regulation 2, by the requisitionists, shall be sent by a prepaid post to the address of each member of the High Council.

4. Want of sending a summons on any member of the High Council shall not affect the validity of the meeting.

5. No business shall be transacted at a meeting other than that specified in the summons relating thereto, unless there are present and consenting thereto at least two thirds of the entire number of the members of the High Council.

6. The meetings of the High Council shall be held at such time and place as the Chairman may, from time to time, appoint.

7. All questions coming before the High Council at any meeting shall be decided by a majority of the members present and, in case of an equality of votes, the Chairman or the person presiding at the meeting shall have a second or casting vote.

8. Minutes of the proceedings of every meeting shall be drawn up by the Director and entered in a book kept for that purpose and shall be signed by the Chairman and when so signed shall be received in evidence in all proceedings without further proof.

9. Any member, who in the opinion of the Chairman, uses language which is disrespectful to the Chairman, or any member who uses language which in the opinion of the Chairman is personally approbrious to the Chairman or to any member of the Council present or any member who is

in the opinion of the Chairman guilty of conduct calculated to retard or obstruct the business of the Council, may be called to order by the Chairman and if the member does not apologise for such language or misconduct forthwith, or offends against this regulation a second time during any one meeting, he may be called upon by the Chairman to withdraw, and on his failing to do so may be expelled by any police officer at the request of the Chairman.

10. Any member who has withdrawn or has been expelled under the provisions of these Regulations shall be liable in respect of any second offence against such Regulations at any subsequent meeting within three months from the date of such withdrawal or expulsion to be suspended by the Chairman from attendance at meetings and performance of all powers of a member of the High Council for such period, not exceeding three months, as the Chairman shall think fit.

SECOND SCHEDULE.

(Section 46.)

REGULATIONS FOR THE ELECTIONS OF VILLAGE MOSQUE COMMITTEES AND FOR THE PROCEDURE OF THE COMMITTEES.

1. (1) For the purpose of this Schedule, unless the context otherwise requires—

“Commissioner” means the Commissioner of the District and includes an Assistant Commissioner;

“Committee” means a Village Mosque Committee;

“Presiding Officer” means the Presiding Officer provided by Regulation 2;

“quarter” means the quarter of any town or village.

(2) Where in a village there is a mosque or any mosque property but the village has no Turkish community the Presiding Officer may group such village with another village having a Turkish community.

(3) Any grouping of any villages under paragraph (2) shall be made by a notice published by the Presiding Officer in at least one Turkish newspaper circulating in the District and posted in a conspicuous place within the area of the village concerned.

2. (1) For the purpose of the first election under this Schedule the Commissioner shall be the Presiding Officer and thereafter the High Council shall appoint for each District, a moslem of Turkish race as Presiding Officer (hereinafter in these Regulations referred to as “the Presiding Officer”) to be in charge of, and responsible for, the conduct of the election in the District.

(2) The Presiding Officer may nominate fit and proper assistants, to act as his representatives in respect of a particular place, and whenever in these Rules reference is made to the Presiding Officer such reference shall be deemed to include his assistants.

3. (1) Within thirty days from the date of the commencement of this Law, and thereafter between the first day of August and the first day of September in every fourth year following the year 1957, the Presiding Officer shall request the Turkish Mukhtar of every quarter or village to prepare and post not later than thirty days after such request at a conspicuous place in the quarter or village, a list (hereinafter referred to as “the voters list”) of all male moslems of Turkish race within the

4 (a) of 27/59.

quarter or village, who, on the date of the request, have completed their twenty-first year of age and were ordinarily resident in the quarter or village during the twelve months immediately preceding such date.

(2) Any such Mukhtar shall prepare and post the voters list as in paragraph (1) of this Regulation provided:

Provided that if for any reason any voters list is not prepared and posted by any such Mukhtar within the aforesaid period, the Presiding Officer shall cause such list to be prepared and posted within ten days from the expiration of that period.

(3) Every voters list prepared and posted under this Regulation shall bear on it the date of posting.

4. (1) Any person desiring to make an objection to the voters list shall apply within ten days from its posting to the Presiding Officer stating the grounds of his objection.

(2) The Presiding Officer, after considering the objections, if any, shall cause such alterations and additions to be made in the voters list as he shall deem necessary and, thereafter, such lists shall be considered as the final and conclusive lists of the persons entitled to vote.

(3) If no objections are made the voters lists as posted shall be final and conclusive.

4 (b) of 27/59.

5. (1) Within a hundred days from the date of the commencement of this Law or within ten days from the date on which the voters lists became final and conclusive, under Regulation 4, whichever date is the earliest, and thereafter within eight days from the first day of December in every fourth year following 1957, the Presiding Officer shall cause to be published in at least one Turkish newspaper circulating in the district and to be posted in a conspicuous place within the area of a quarter or village a notice fixing the time and place for the nomination of candidates for membership of the Village Mosque Committee.

(2) The notice shall be published and posted at least six days before the date fixed for the nomination of candidates.

6. (1) At the appointed date, time and place the Presiding Officer shall accept the nomination of candidates.

(2) Each nomination shall be made by a separate nomination paper subscribed by the candidate and by two voters one proposing and one seconding the candidate in such manner as in the opinion of the Presiding Officer shall be sufficient to identify the person subscribing.

(3) The candidate nominated by each nomination paper, the proposer and seconder and one other person selected by the candidate and no other person (except the Presiding Officer and his assistants) shall be entitled to attend at the time of the nomination.

(4) The Presiding Officer shall, if satisfied that the nomination paper is in order, cause to be posted at a conspicuous position outside the place of the nomination a notice of the person nominated as candidate and of the names of the proposer and seconder.

(5) If at the closing of the time appointed for the nomination there are no more nominations than vacancies the Presiding Officer shall declare the persons nominated as duly elected if satisfied that the persons nominated have the required qualifications and shall cause a notice to this effect to be posted at a conspicuous position outside the place of the nomination and to be published in at least one Turkish newspaper circulating in the District.

(6) If at the closing of the time appointed for the nomination there are more nominations than vacancies then the Presiding Officer shall fix a date, place and time for election (which shall not be more than eight days from the date of the nomination) by posting a notice to this effect and publishing the same in the same manner provided by paragraph (5) of this Regulation.

(7) The Presiding Officer shall decide there and then on the validity of any objection made to a nomination paper and his decision shall be final.

7. At the appointed date and time the Presiding Officer shall proceed to hold an election in accordance with the following provisions:—

- (a) the election shall be held in a room (hereinafter referred to as "the polling place") where secrecy of the poll is ensured;
- (b) there shall be a ballot box for each candidate in the polling place which shall be of such kind as may be approved for the first election by the Commissioner and for every subsequent election by the High Council;
- (c) each ballot box shall bear the full name of one of the candidates plainly and legibly printed or written thereon in Turkish and shall be in charge of a person appointed by the Presiding Officer (hereinafter called "the person in charge");
- (d) every voting ticket shall be in such form and shall bear such seal or mark at its back as the Presiding Officer may, by the notice provided by paragraph 6 of Regulation 6, determine;
- (e) the Presiding Officer shall regulate the number of voters to be admitted to the polling place at the same time and shall exclude all other persons except his assistants, the person in charge, the Mukhtar or an aza of the quarter or village concerned and any police officer;
- (f) immediately before the commencement of the poll the Presiding Officer shall show each ballot box empty to such persons, if any, as may be present in the polling place, so that they may see that it is empty and shall then lock and seal it in such manner as to prevent it being opened without breaking the seal and shall place it in his view for the receipt of the voting tickets, and keep it so locked and sealed;
- (g) the permitted number of voters shall be allowed to be in the polling place at the same time. On admission each voter, after being properly identified and a mark being put against his name in the voters list, shall proceed to vote. For this purpose the Presiding Officer shall hand to each person in charge a number of voting tickets equal to the number of voters present at the polling place. The person in charge shall state the name of the candidate and deliver the voting ticket to the voter who on receiving it shall raise his hand to show that he holds only one ticket and then vote;
- (h) no voter shall give more than one vote to any person and any such other vote shall not be counted;
- (i) when the Presiding Officer is satisfied that all voters present at the place of voting and desirous to vote have voted, he shall declare the poll closed and proceed at once, in the presence of any of the persons referred to in paragraph (e) of this Regulation and of any other person whom he may consider as being a candidate at the election, to count the voting tickets;

- (j) the Presiding Officer on unsealing, unlocking and opening each ballot box shall count the number of the voting tickets therein. If any ballot box contains more or less voting tickets than the number of voters who voted at the poll it shall not vitiate the election but any number of voting tickets in excess shall be deducted from the "Ayes", appearing in that box;
- (k) the person who has received the greatest number of votes shall be deemed to have been elected as a member of the Committee. The person receiving the next greatest number of votes shall, in the same manner, be deemed to be elected as member of such Committee and so on in like manner until all the members of such Committee are elected;

Provided that if one more member of such Committee remains to be elected and two or more persons have received an equal number of votes, the Presiding Officer shall draw a lot and the person so drawn shall be declared duly elected;

- (l) the declaration of the result of the election shall be made forthwith publicly by the Presiding Officer who shall cause a written declaration in this respect to be posted in a conspicuous position outside the polling place.

8. (1) As soon as conveniently may be after the election the Presiding Officer shall call a meeting of the persons elected and ask them to elect amongst themselves a Chairman.

(2) The election of Chairman shall be by majority and in case of equality of votes the Presiding Officer shall draw a lot and the person so drawn shall be declared as the elected Chairman.

9. No person shall be eligible as a Chairman or member of a Committee unless—

- (a) he is a male moslem of Turkish race and his name appears in the voters list of the quarter or village in respect of which he is to be elected;
- (b) he is not an undischarged bankrupt or lunatic or a person of unsound mind or a person who has been convicted within the two years next before the election to imprisonment exceeding six months.

10. An elected Committee shall come into office on the first day of January immediately following its election and shall hold office for four years from that date:

Provided that—

- (a) a Committee elected for the first time after the date of the commencement of this Law shall come into office on the first day of the month immediately following that election and shall hold office until the thirty-first day of December, 1961;
- (b) if for any reason no election is held in respect of any village the Committee of that village shall remain in office until another is elected in its stead.

11. (1) The Chairman of each Committee may, whenever he thinks fit, and shall, when so requested by a member of the Committee, convene and preside at its meetings and, in case of his absence or incapacity, the older member of the Committee shall replace him.

(2) No business shall be transacted at any meeting unless at least three members are present.

(3) Every decision is taken by majority and in case of an equality of votes the Chairman or the member who presided at the meeting shall have a second or casting vote.

(4) No act or proceeding of the Committee shall be deemed to be invalid by reason only of a vacancy in the Committee.

12. If for any reason the Chairman or any member of the Committee shall cease to hold office, the Committee shall elect another properly qualified person to be the Chairman or a member thereof in his place, respectively, for the duration of the unexpired period of his office.

