



دولة الكويت
State of Kuwait



The Guiding Law of Endowment

2nd Edition

Studies and External Relations Department



الأمانة العامة للأوقاف
Kuwait Awqaf Public Foundation



دولة الكويت
State of Kuwait

The Guiding Law of Endowment

2nd Edition

Studies and External Relations Department

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Foreword by the Kuwait Awqaf Public Foundation for the Second Edition

All praise is due to Allah, Lord of all creation. The best outcome is for the righteous, and peace and blessings be upon the Seal of the Prophets and Leader of the Messengers, and his family and all his companions.

The first edition of this publication, *The Guiding Law of Endowment (Awqaf)*, was released in 2014 as one of the sixteen projects undertaken by the Kuwait Awqaf Public Foundation, representing the State of Kuwait as the “coordinating state for Islamic countries’ efforts in the field of endowment.” This publication received widespread recognition and was well received by researchers and those interested in endowment affairs—both individuals and institutions—locally, regionally, and globally. Several factors contributed to this positive reception, including the fact that the project compiled and documented all that had been written on codifying the provisions of Islamic endowment and its investment methods, both ancient and modern, across several Islamic countries within a shared geographical region. It then analysed and compared these provisions, presenting them as a unified endowment law that could be applied across the Islamic world while taking into account different legal and jurisprudential perspectives. Another factor was the involvement of a distinguished group of experts and specialists in law, Islamic jurisprudence, and economics, who ensured that the text was meticulously crafted, leading to its broad dissemination and adoption. The Kuwait Awqaf Public Foundation oversaw the distribution and publication of this work, both in print and digital formats, and it was received with blessings-praise and gratitude be to Allah.

As evolution is a natural part of life, it must also extend to the study and practice of endowment. Given that ten years have passed since the first edition and a considerable amount of time has elapsed since its implementation, it has become necessary to revisit, review, and refine the content. Therefore, the Kuwait Awqaf Public Foundation is pleased to present the second edition of *The Guiding Law for Endowment*, now in a newly formatted and typeset version. This edition surpasses the previous one by addressing and correcting any human errors or omissions and by incorporating further enhancements

and revisions. Additionally, to facilitate wider accessibility and support non-Arabic speaking researchers and those interested in endowment worldwide, the Kuwait Awqaf Public Foundation has also released this edition with officially approved translations in English and French.

Furthermore, we have chosen to retain the forewords from the first edition in this publication, as they contain valuable information regarding the book, its methodology, the reasons for its publication, the stages of its development, and a general overview of its content.

This work consists of twelve chapters comprising 86 articles, covering such various aspects as the definition, types, pillars, and conditions of endowment, procedures for its establishment, its effects, management, and investment as well as its termination and specific regulations for certain types of endowment. Every effort has been made to ensure that these provisions serve as a solid foundation from which Islamic institutions worldwide can benefit. The guiding provisions in this law are widely agreed upon and can be adapted to align with the local laws of different countries. With its officially approved translations, *The Guiding Law for Endowment* has rightfully become an encyclopedic and comprehensive reference for anyone seeking to understand endowment laws, its various applications, and the development of its regulations.

At this juncture, we extend our sincere gratitude to the Research and Studies Department and External Relations and all its members for their diligent supervision of this project from its inception to its second edition. Their dedication to ensuring that this project is published in the most refined form-consistent with their approach to all their valuable publications-is truly commendable. May Allah reward them abundantly. We also extend our heartfelt thanks to Professor Dr. Muhammad Ramadan, former advisor at the Egyptian State Council and legal advisor in Kuwait and the Kuwait Awqaf Public Foundation, for his invaluable efforts in reviewing and refining this work.

Our gratitude is also extended to the working team responsible for drafting the law, its executive regulations, explanatory memorandum, and official translations, as well as to the various administrative units within the Kuwait Awqaf Public Foundation that contributed to this effort.

Finally, this publication is a gift from the Awqaf Public Foundation to the State of Kuwait and the world. We ask the Allah Almighty to reward all those who contributed to its completion with immense goodness and to make it beneficial to Islam and Muslims.

Foreword by the Kuwait Awqaf Public Foundation (First Edition)

Praise be to Allah, and may peace and blessings be upon the Messenger of Allah, Muhammad, the son of Abdullah, and upon his family, his companions, and those who follow him.

Reviving the Sunnah of endowment (waqf) has been one of the strategic objectives of the Kuwait Awqaf Public Foundation since its establishment in 1993. Such an objective has been achieved through local projects, programmes, and activities, along with efforts activating this role at an international level. These endeavours stem from a commitment to cooperation in righteousness and piety, and from a call for all Muslims to benefit from the blessings and noble fruits of endowment. Kuwait Awqaf Public Foundation also takes upon itself to foster the exchange of ideas and perspectives on the most effective ways to develop endowment institutions and empower them to play a distinguished role in the development of Islamic nations.

The State of Kuwait was entrusted with this role at the Sixth Conference of Their Excellencies the Ministers of Endowments and Islamic Affairs, held in the Indonesian capital, Jakarta, in October 1997. The tireless efforts and dedicated work of the officials and staff at the Kuwait Awqaf Public Foundation have resulted in its selection as the endowment institution representing the State of Kuwait in overseeing the implementation of projects under the initiative entitled “Coordinating State for the Efforts of Islamic Countries in the Field of Waqf.” Kuwait was entrusted with this role during the Sixth Conference of Ministers of Awqaf and Islamic Affairs, held in the Indonesian capital, Jakarta, in October 1997.

Since then, the Kuwait Awqaf Public Foundation – working in partnership with numerous entities and institutions across the Islamic world – has been actively engaged in implementing a variety of waqf-related projects and activities within the spirit of coordinated efforts among Islamic countries. The overarching objective of these initiatives purports to support the waqf concept and promote its dissemination throughout the Islamic world. It is worth-mentioning that there are 16 projects which are introduced as follows:

- “Medad” Project for publishing, distributing, and translating books in the field of endowments

- Graduate Student Support Project in the field of endowments
- Kuwait International Award for Endowment Research Project
- “Awqaf” Journal Project
- Forum on Jurisprudential Issues of Endowments Project
- “Nama’a” Project for the development of endowment institutions
- “Qitaf” Project for the transfer and exchange of endowment experiences
- Model Endowment Law Project
- Kuwait Awqaf Public Foundation Award for Excellence and Innovation in Endowments Project
- Endowment Information Bank Project
- Endowment Literature Indexes Project
- Endowment Sciences Thesaurus Project
- Endowment Terminology Dictionary Project
- Biographical Dictionary of Prominent Endowment Figures Project
- Atlas of Endowments in the Islamic World Project
- Kuwait International Children’s Story Writing Competition Project

These projects are open to expansion and growth, based on the study and assessment of emerging scientific and research needs proposed by the various departments within the Kuwait Awqaf Public Foundation, or in accordance with suggestions received from institutions and organizations concerned with endowment affairs.

We praise Allah, the Almighty, for enabling the successful completion of one of the Coordinating State’s key initiatives – the project of the Guiding Law of Endowment. Such a project is expected to benefit all Islamic countries, as it proposes a model of endowment law which takes into account the religious and doctrinal diversity in Islamic countries. It also contributes to the development of the endowment legal legislation currently in effect in these countries. The project was implemented in collaboration with the Islamic Development Bank in Jeddah.

The project of the “Guiding Law of Endowment” reflects a strong and pressing desire among both official and public entities concerned with endowment affairs across the Islamic world to issue a legal framework that preserves the approved position of endowments and elevates the status of this Noble Prophetic Sunnah (tradition). Such thoughtful endeavours will undeniably have positive impact on the future of endowments throughout the Islamic world.

The success of this project is the product of the contributions of many individuals and institutions, top most among which the Islamic Development Bank, represented by its Islamic Development Bank Institute,⁽¹⁾ which served as a strategic partner in supporting numerous initiatives of the Coordinating State. The Institute's unwavering support was instrumental in bringing the project to fruition. We also extend our deep appreciation to the working group that drafted the law, its executive regulations, and explanatory memorandum through a series of dedicated workshops held throughout the project's development. Special thanks are due to the Studies and International Relations Department at the Kuwait Awqaf Public Foundation, which oversaw and guided the project with diligence and care. It is with great pleasure that we present the second edition of the Guiding Law of Endowment, revised and updated to reflect recent developments in the field of endowment and its legislation, ensuring a more comprehensive and impactful final version.

On this occasion, we can only extend our heartfelt thanks to the Islamic Development Bank, represented by the Islamic Development Bank Institute, the working team, and all those who contributed to the success of this project, including the staff, officials, departments, and institutions involved. May Allah reward them all with the best of rewards. We ask Allah, the Almighty, to accept this work and make it a source of benefit to Islam and Muslims.

And peace, mercy, and blessings of Allah be upon you.

The Kuwait Awqaf Public Foundation

(1) The Institute was previously named the Islamic Research and Training Institute in the first (pilot) edition of the Guiding Law of Endowment. Its name was later updated to become the Islamic Development Bank Institute.

Address of the Islamic Development Bank Institute⁽¹⁾

All the praises and gratitude be to Allah, the Lord of beings, and may blessings and peace be upon the most honorable messenger, Muhammad bin Abdullah, and all his family and companions, and upon those who follow him with righteousness until the Day of Judgment.

The laws and regulations of endowments are among the important topics that the Islamic Development Bank Institute, a member of the Islamic Development Bank Group, and the Kuwait Awqaf Public Foundation in the State of Kuwait have given special attention to.

Within the framework of promoting endowment legislation and developing it in the Islamic world, the Institute and the Secretariat included the draft guiding law for endowment within the joint plan between the two institutions.

The guiding law aims to assist Islamic countries in developing their existing legislation and to benefit from it in developing new laws and regulations for endowments in countries where such laws do not exist.

The staff not only completed the project and prepared the text of the law, but also worked on preparing accompanying documents, represented by the explanatory memorandum to facilitate its benefit, and an executive regulation detailing what was stated in general in the law and referring to other detailed sources. I am not in a position to enumerate the advantages of the law, its importance, its stages, and the documents accompanying it. The introduction to the law—which is between the two covers of the book—is sufficient for me to showcase the importance of this law. The introduction contains what is intended, and from its content, the distinguished effort made by the staff to accomplish this pioneering project appears so visibly. First and foremost, gratitude be to Allah for his guidance in completing this work. Thanks go to the staff for their effort and perseverance, and to the Kuwait Awqaf Public Foundation for its great support for endowment projects in the Islamic world.

May Allah Grant us success and guide us to the straight path.

Dr. Muhammad Azmi Omar

Director General of the Islamic Development Bank Institute

(1) The institute was previously named (Islamic Research and Training Institute) in the pilot version (first edition) of the Guiding Law of Endowment. Its name was later changed to (Islamic Development Bank Institute).

Introduction

1. Preamble

It is necessarily known from the jurisprudence of the endowment that the texts of the Noble Sunnah concerning the endowment are few when compared to its legal rulings. These texts came to confirm the foundations of the endowment and its general principles, leaving it to the jurisprudence of jurists to devise the detailed provisions that society needs.⁽¹⁾

The jurisprudence accounts varied in the rulings they contained across the different schools of jurisprudence, and the disagreement over some issues of endowments became more acute, so jurists resorted to holding scientific debates about some of the disputed issues. A sufficient example of this is the debate that took place between the supporters of Sheikh al-Islam Ibn Taymiyyah, who saw that it is possible to replace and exchange an endowment⁽²⁾ simply because the benefit and interest were achieved, even if the endowment was not suspended, versus his opponents among the jurists who saw otherwise, whether from the Hanbali school of thought or other schools. The best person to depict this debate was the student of

(1) For example: The Hadith of 'Umar bin Al-Khattab, may Allah be pleased with him, about whom Al-Hafiz Ibn Hajar said: (This hadith of 'Umar is the basis for the legality of endowments.) See: Ibn Hajar Al-Asqalani, **Fath Al-Bari**, vol. 5, p. 402, and its text is: Narrated Ibn 'Umar, may Allah be pleased with them both, he said: "I have got a piece of land, better than which I have never got. So what do you advise me regarding it?" The Prophet (PBUH) said, "If you wish you can keep it as an endowment to be used for charitable purposes." So, 'Umar gave the land in charity (i.e., as an endowment on the condition that the land would neither be sold nor given as a present, nor bequeathed (and its yield) would be used for the poor, the kinsmen, the emancipation of slaves, Jihad, and for guests and travelers; and its administrator could eat in a reasonable just manner, and he also could feed his friends without intending to be wealthy by its means."

Also, the endowment by Uthman of the Ruma Well, as stated in **Nasb al-Riyah** by Al-Zayla'i, vol. 3, p. 477. This asset (Ruma spring) is the one referred to by Imam al-Bukhari, may Allah be pleased with him. Abu 'Abdur-Rahman narrated that: When 'Uthman (ra) was circled (by the rebels), he looked upon them from above and said, "I ask you by Allah, I ask nobody but the Companions of the Prophet (PBUH), don't you know that Allah's Messenger (PBUH) said, 'Whoever will (buy and) dig the well of Ruma will be granted Paradise,'" and I (bought and) dug it. See: Sahih Al-Bukhari, vol. 3, p. 198, Book of Wills and Testaments (Wasaayaa), chapter: If somebody endows a land or a well. Among them are many hadiths urging ongoing charity, the benefits of which are renewed over time, such as living in a house, riding an animal, and getting water from a well. See, for example: What was narrated by Muslim and others: Sahih Muslim, vol. 2, p. 125, Book of Wills and Sunan Abi Dawud, vol. 3, p. 30.

(2) Exchange is most often used in purchasing an asset for an endowment with the price for which a specific item was sold to be an endowment in its place. This means selling an asset for money and buying another one with that money. See: Ibn Najim, *Tahrir al-Maqal fi Mas'lati Al-Istibdal*, within the **Book of Messages**, edited by: Khalil al-Mays, 1st edition (Beirut: Dar al-Kutub al-Ilmiyyah, 1400 AH/1980, pp. 80-81). Jurists sometimes express it with the terms exchange and transfer, and often what is meant by them is bartered, that is, the exchange of a waqf asset for another similar one. In this sense, the Maliki jurist Al-Dardir said in his definition of transfer, stating that it is: (the sale of real estate for its equivalent). **Al-Sharh Al-Kabir**, vol. 3, p. 47.

Sheikh al-Islam Ibn Taymiyyah, Al-Hafiz Ibn Kathir.⁽¹⁾

2. The need for a guiding law for Endowment:

Some Islamic countries tried, through contemporary endowment laws and regulations, to bring together the endowment provisions, but these laws were disparate. Some of them did not go beyond the general provisions, while others did no more than combine the provisions of jurisprudence with arrangement. Hence the need to develop a contemporary model law that would benefit Islamic countries as well as Islamic communities in non-Islamic countries, whether in developing new legislation and regulations for the endowment or developing their existing legal system.

3. Translating desire and idea into a practical project:

The desire of the Islamic Development Bank Institute, a member of the Islamic Development Bank Group in Jeddah, and the Kuwait Awqaf Public Foundation coincided. This desire was confirmed when the Kuwait Awqaf Public Foundation was assigned by the Executive Council of Ministers of Endowments and Islamic Affairs in its eighth conference held in Beirut 1424 AH

(1) On the date of Monday, the twenty-eighth of the month of Jumada al-Awwal, in the year seven hundred and fifty-four AH, Ibn Kathir said in his account: (In this month a dispute occurred between the Hanbalis regarding the issue of exchange, and the reason for it was that the Maliki judge—who was the supreme judge, Jamal al-Din al-Masalati—permitted Sheikh Sharaf al-Din Ibn Qadi al-Jabal al-Hanbali to rule on the exchange of the residence of Prince Saif al-Din Taidmar al-Ismaili, Chamberlain of Al-Hijab, to another land, making it an endowment on what his home was, and so he did. The three judges, Al-Shafi'i, Al-Hanafi, and Al-Maliki, implemented it. The Hanbali judge—who was the supreme judge, Jamal Al-Din Al-Mardawi Al-Maqdisi—was angry about this, and because of that he held councils and talked at length about it. Many of them claimed that Imam Ahmad's exchange doctrine is only permitted in cases of necessity and where it is not possible to benefit from the endowed property. However, exchanging the assets merely for the sake of interest and outweighing benefit is not permissible. They refused to accept what Sheikh Taqi al-Din Ibn Taymiyyah decided on this matter and quoting it from Imam Ahmad in many ways through the path of his son Salih, Harb, Abu Dawud, and others, that it is permissible for the prevailing interest. Sheikh Taqi al-Din Ibn Taymiyyah wrote about a separate issue that I examined and found to be very good and useful so that those who examined it among those who had a taste of jurisprudence would not be confused that it is the doctrine of Imam Ahmad, may Allah have mercy on him. Ahmad used this as evidence in the narration of his son Salih, with what he narrated on the authority of Yazid ibn Harun, on the authority of Al-Masudi, on the authority of Al-Qasim ibn Muhammad, that Omar wrote to Ibn Masoud to transform the Jami' Mosque in Kufa into the place of the dates Market and place the market in the place of the old Jami' Mosque, and so he did.

This is the clearest indication of what he inferred from the exchange being merely for the sake of interest, for there is no need to make the ancient mosque a marketplace, given that the chain of exchange contains a break between Al-Qasim and Omar and between Al-Qasim and Ibn Masoud. But the author of the "doctrine" has asserted it and used it as evidence, and it is apparent. The council was held on Monday, the twenty-eighth of the month).

Al-Bidayah wa Al-Nihayah, vol. 18, pp. 570-571.

to monitor endowment laws and methods of investing them in some countries of the world and prepare a draft guideline for endowments. This assignment was based on the mandate of the State of Kuwait, represented by the Kuwait Awqaf Public Foundation, at the Sixth Conference of Their Excellencies and Gentlemen Ministers of Endowments and Islamic Affairs, which was held in the Indonesian capital, Jakarta, in October 1997.

Cooperation between the Secretariat and the Institute culminated in a strategic alliance based on an annual plan in which projects are determined according to the needs of Islamic countries.

Based on the agreement between the Institute and the Secretariat, as well as the International Endowment Authority (one of the bodies specialized in endowments in the Islamic Development Bank Group), the first symposium of the draft guiding law for the endowment was held in Shawwal 1425 AH (AD 2004) at the headquarters of the Islamic Development Bank in Jeddah. The symposium examined the following projects and legal systems:

- General issues in contemporary endowment legislation.
- Studying the endowment laws of the Gulf Cooperation Council countries and Iran and proposing a draft model law for them.
- Studying the endowment laws of the Levant and Iraq countries and proposing a draft model law.
- Study the endowment laws in India and Pakistan with a proposal for a model law.
- Studying endowment laws in Egypt and Sudan and proposing a model law.
- The draft law on endowments in the State of Kuwait.
- A draft model law for endowments.

4. Project implementation stages:

First: The planning stage:

1. Dividing Islamic countries into homogeneous groups according to their prevailing legal culture and the characteristics of their similar endowment legislation.
2. Selecting researchers according to groups of countries. The task of each researcher is to conduct an accurate survey of the countries within his group so that the following is covered:
 - a. Monitoring laws and legislation related to endowments, and other relevant regulations and laws.

- b. Providing a brief overview of the efforts made in endowment legislation in each country regarding successive amendments to endowment legislation.
 - c. Statement and analysis of legal problems, especially resulting from the practical application of endowment legislation.
 - d. A summary proposal of the most important topics and issues that must be addressed by the guiding law.
3. Forming a (technical) staff to study the extracts of the issues of the endowment guideline law and analyze them according to the papers, opinions, proposals, and observations mentioned in the workshop, and place them in initial drafting and in a form that is close and compatible with the articles of contemporary laws and legislation.
 4. Forming a working group (legal - Jurist) to draft the draft guiding law for the endowment, its explanatory memorandum, and its executive regulations.
 5. Sending the draft law, along with its explanatory memorandum and executive regulations, to the various ministries and bodies related to the endowment to enrich the project and receive their opinions regarding it.
 6. Holding a public session to which representatives of official and private endowment bodies and some experts are invited to express their opinion on the draft law, its explanatory memorandum, and its executive regulations in a manner similar to a hearing.
 7. Revising the draft law, its explanatory memorandum, and its executive regulations and introducing the necessary amendments to them.
 8. Submitting the law document, its explanatory memorandum, and its executive regulations to the Chairman of the Executive Council of the Conference of Endowments Ministers, accompanied by a detailed report explaining the various stages of the project, to be submitted by the Kuwait Awqaf Public Foundation.

Second: The implementation stage:

1. The entities cooperating in implementing the project formed a staff consisting of:

- Dr. Al-Ayashi Fedad: Sharia researcher representing the Islamic Development Bank Institute (team leader).
- Kawakib Al-Mulhim: Director of the Research and studies Department and

External Relations—formerly a representative of the Kuwait Awqaf Public Foundation (in the period from the beginning of the project until mid-June 2013).

- Munawar Al-Shaqabi: Director of the Department of Studies and External Relations, representing the Kuwait Awqaf Public Foundation (in the period from mid-June 2013 until the end of the project).
- Dr. Mohamed Ismail: Professor of Law at Cairo University.
- Dr. Muhammad Ramadan: former advisor to the Egyptian Council of State, legal advisor to the State of Kuwait, and the Kuwait Awqaf Public Foundation.
- Dr. Jumaa Al-Zariqi: Judge at the Supreme Court in Tripoli – Libya.

2. The staff has completed preparing the following draft projects:

1. A draft text of the Model Law on endowments.
2. A draft explanatory memorandum for the law.
3. A draft of executive regulations of the law.

Third: The final stage:

1. The final review of the three drafts of legal documents (the text of the model law, the explanatory memorandum, and the executive regulations).
2. The documents were sent to endowment bodies in the Islamic world and some jurists and jurists, and their opinions and comments were received.
3. A hearing session was held at the headquarters of the Islamic Development Bank in Jeddah to study and discuss the observations and opinions of endowment bodies, experts, and jurists.
4. The work team prepared the final wording of the draft law, its explanatory memorandum, and its executive regulations.
5. A complete copy of the law and its annexes were sent to the Secretariat of the Executive Council of Endowments Ministers for approval and distribution to Islamic countries.

5. A general definition of the project:

A. The project consists of (86) articles distributed into (12) chapters:

Chapter One: Definition of Endowment and its Types

Chapter Two: The Pillars of Endowment and the Conditions for its Validity and Enforcement

Chapter Three: The Conditions of Endowment

Chapter Four: Procedures for Establishing and Proving an Endowment

Chapter Five: Effects of Endowment

Chapter Six: Managing Endowed Funds

Chapter Seven: Investing Endowed Funds

Chapter Eight: Eligibility for the Endowment

Chapter Nine: The legal system for endowed funds

Chapter Ten: Terminating the Endowment

Chapter Eleven: Special Provisions for Some Types of Endowments

Chapter Twelve: General and Transitional Provisions

B. General directions of the project:

First: Commitment to the lawful provisions of the endowment by not adhering to the jurisprudence of one doctrine, but rather exploring the various doctrines of jurisprudence and taking from them and contemporary jurisprudence.

Second: Seeking rules and regulations that fall within Sharia frameworks, respond simultaneously to contemporary needs and facts, and do not conflict with the social, economic, and political interests that govern the development of Islamic societies.

Third: Benefiting from contemporary literature, whether in matters related to the endowment or from modern similar systems that do not conflict with the Islamic endowment system, based on the saying of the Prophet (PBUH) that wisdom is a believer's desired goal which he is most deserving of, should he find it.

Fourth: Benefiting from studies related to endowment and similar systems, especially recent studies, whether conducted within the Islamic jurisprudence framework or existing practices in other frameworks.

Fifth: Benefiting from the experiences of the endowment in Islamic countries, and endowment laws and systems in effect in these countries.

Sixth: The draft law should include the general endowment rules and its overall provisions in a flexible manner, considering differences in economic and social circumstances and the multiplicity of schools of Islamic jurisprudence.

Seventh: Referral to the executive regulations for detailed matters and partial rules that are not covered by laws, and may differ from one Islamic country to another, and even from one historical stage to another.

Praise be to Allah, Lord of all creation.

Project (Law or Regulation) number of the year By issuing the Endowment Law⁽¹⁾

After reviewing the Constitution (bylaws – Constitutional Declaration), and the laws and regulations governing endowment provisions, the Legislative Council (Parliament – National Assembly – People’s Assembly – Constituent Assembly – Council of Ministers) has enacted the following law, which we have duly ratified and issued.

The First Article

The provisions of the attached law or (regulation or code) regarding Islamic Endowments shall be implemented, and every provision that contravenes the provisions of this law (or regulation) shall be repealed.

The Second Article

In applying the provisions of the attached law or (regulation or code), the competent minister refers to the minister in charge of endowment affairs, unless otherwise stated.

The Third Article

The Minister responsible for endowment affairs shall issue the executive regulations for the attached law or (the regulation or code) within one year from the date of its implementation. Until the executive regulation is issued, the regulations and decisions related to Islamic endowment affairs in effect at the time of its issuance will continue to be implemented in a manner that does not conflict with the provisions of the attached law or (the attached regulation or code).

The Fourth Article

All concerned parties, including administrators of endowments established before the enactment of this law, those responsible for their management, or those obligated by laws, regulations, rules, or prevailing customs to oversee any of their affairs, must ensure compliance with the provisions of the attached law (or attached regulation) and fulfill its requirements within one year from the date of enforcement of the executive regulations.

(1) The term (law or regulation) is chosen according to the one used in the countries concerned.

The Fifth Article

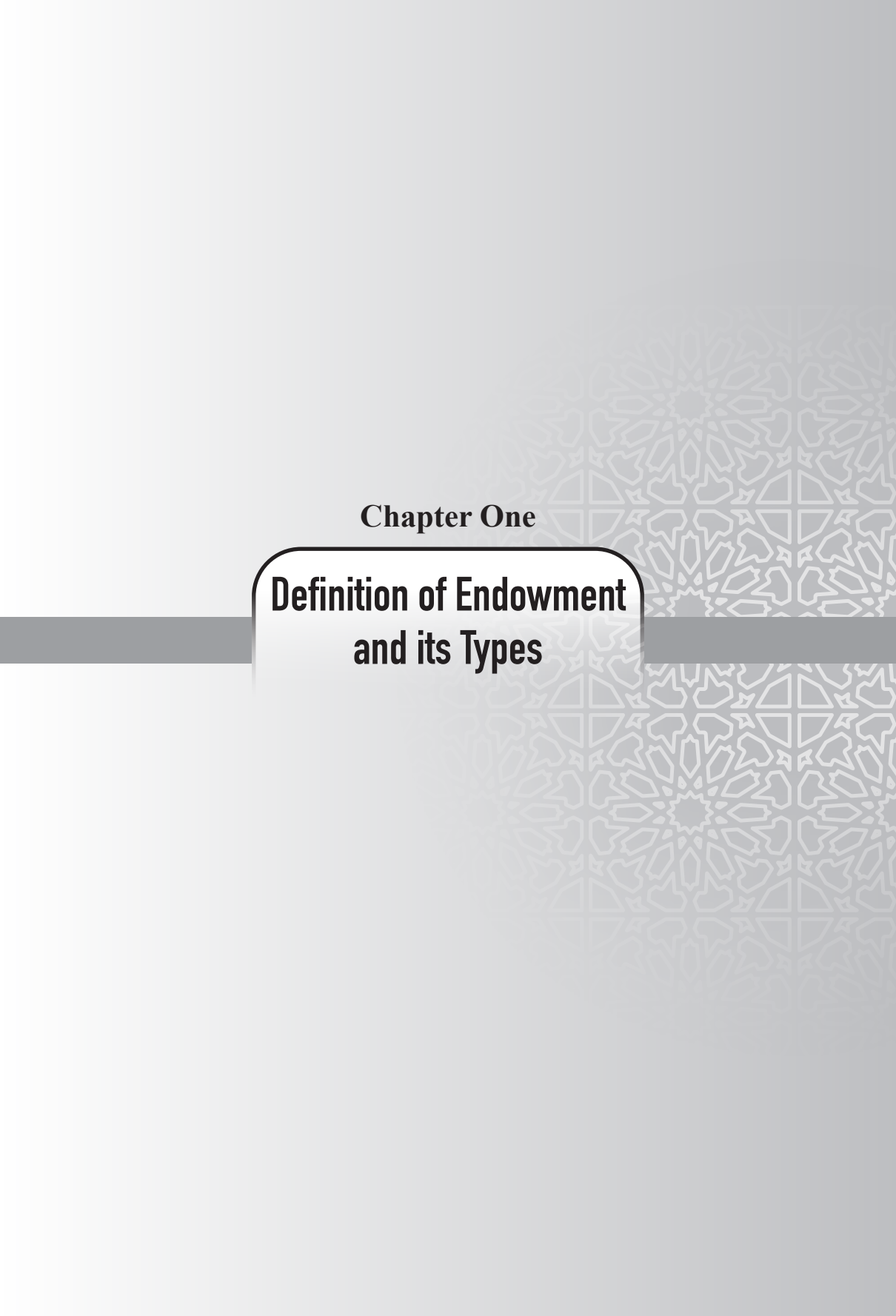
This law (this regulation) shall be published in the Official Gazette and shall come into effect six months after the date of its publication.

Head of State.⁽¹⁾

(The King, the Prince, the President of the Republic...etc.)

Issued in year ... AH corresponding to year AD

(1) The term "Head of State" shall be replaced by the official constitutional title of the Head of State (King - President of the Republic - Prince... etc.).



Chapter One

Definition of Endowment and its Types

Article (1)

In applying the provisions of this law (this regulation), endowment means locking up monetary assets and allocating their benefits.

Types of Endowment:

Article (2)

An endowment is divided into three types:

1. Charitable endowment (Public Endowment) is something in which the benefit is made for a charitable cause.
2. Family endowment (Private – descendible Endowment) is a type of endowment in which the benefit is initially designated for specific individuals, but ultimately for transitions to a charitable or public entity. In this context, exceptions apply to cases of temporary endowments as specified by law, where the benefit may be designated for individuals both at the beginning and the end.
3. Joint Endowment: it is an endowment in which the benefit is designated, from the outset, for both a charitable cause and specific individuals simultaneously.

Article (3)

Charitable (Public) endowments are divided into two types:

1. Endowments for public good and benefits.
2. Endowments for specific persons by their characteristics.

Chapter Two

The Pillars of Endowment and the Conditions for its Validity and Enforcement

Conditions for executing the endowment:

Article (4)

An endowment is established on the initiative of one or more persons, natural or legal, or both, by locking up money and allocating its proceeds to the purposes it specifies, in a form indicating the endowment. Any natural or legal person may join an existing endowment and endow it for its purposes and abide by the terms and conditions stated in its deed.

Article (5)

The endowment is concluded by the will of the endower, verbally or in writing. If the endower is incapable of doing so, the endowment is concluded by his sign indicating the endowment. The endowment is concluded by a deed with evidence indicating the will of the endowment.

Conditions for the validity of the endowment:

Article (6)

The following is required for the endowment to be valid:

1. The endower must be eligible to donate in accordance with the provisions of the law or (regulation) and meet the conditions stipulated in the executive regulations.
2. The endowment must be money owned by the endower that meets the conditions stipulated in the executive regulations. The endowment may be a common share, except for the endowment of the mosque and the cemetery, unless the remaining property is endowed for the same purpose, or it may be shares or shares in companies. The money is required to be legitimate and used in a manner consistent with Shari'a rulings. However, it is permissible to endow property used in a way that contravenes the Shari'a provisions, provided that the administrator is committed to changing its use to be in accordance with the Shari'a provisions.
3. The endowment must be on an offering that meets the conditions stipulated in the executive regulations and must not be granted to an entity for whom endowment is forbidden in Islamic law. If the endower is not a Muslim, then the beneficiary must not be a party forbidden by his law or by Islamic law.

Conditions for the enforcement of the endowment:

Article (7)

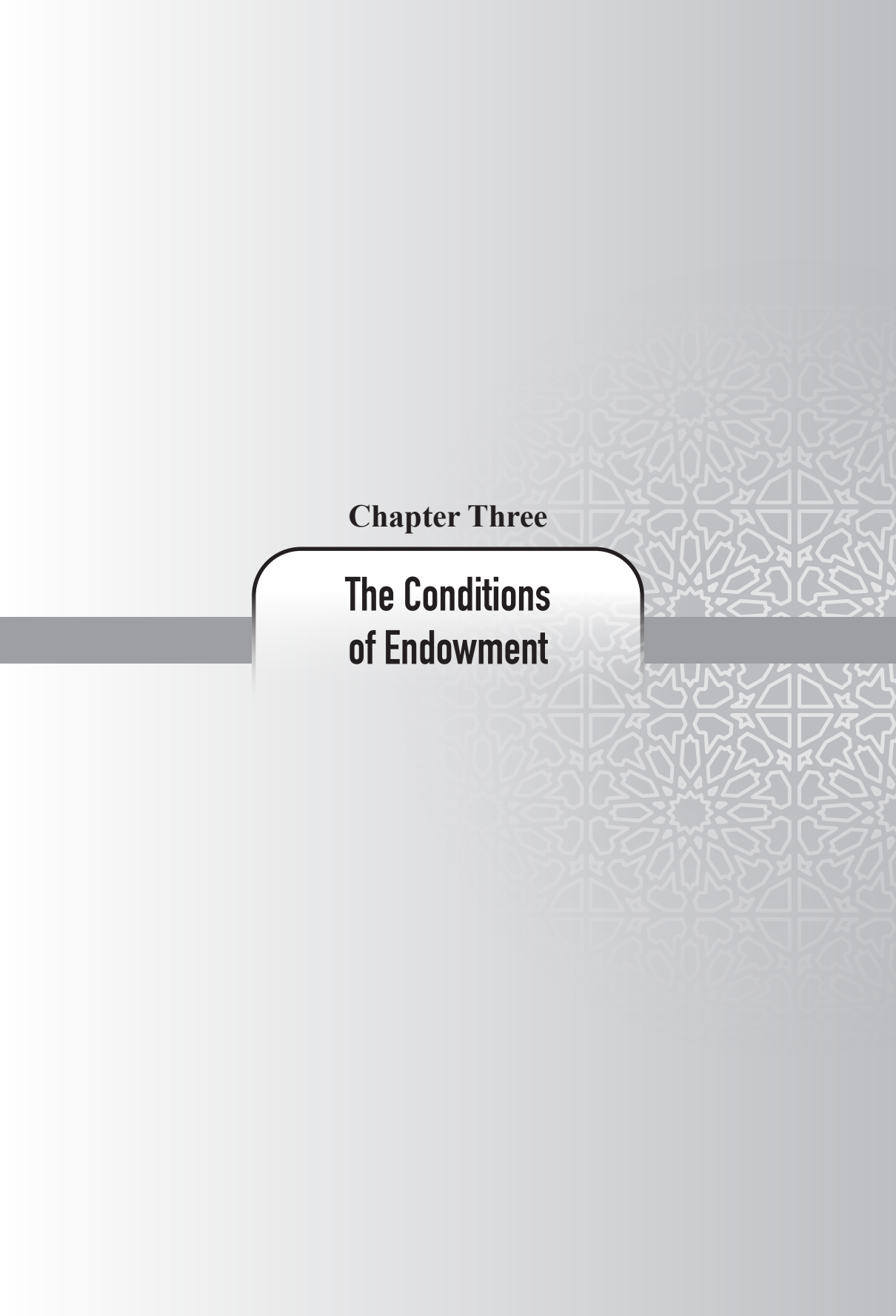
The following is required for the endowment to take effect:

1. Taking the procedures prescribed in this law to establish the endowment with an official document in cases that require this under the rules and provisions contained in the executive regulations.
2. Consent of the heirs in the following cases:
 - a. If the endowment is executed during the endower's terminal illness.
 - b. If the endowment is implemented after death.
 - c. If the value of the endowed funds exceeds one third of the endower's estate before his death, and for endowed assets above one third.
3. Payment of the debt or approval of creditors if the endower owes an outstanding debt.
4. Terminating the mortgage if the money to be endowed is mortgaged.

Article (8)

The following shall not be considered a condition for the establishment, validity, or enforcement of the endowment:

1. The Islam of the endower.
2. Acceptance of the beneficiary.
3. Removing the endowed money from the hand of the endower.
4. The endowment being tied with an invalid condition.



Chapter Three

The Conditions of Endowment

Provisions related to the endower's condition:

Article (9)

The endower has the right to stipulate his endowment with the conditions he deems appropriate, and the endower's condition is endower, as is the legislator's text in terms of understanding and significance. The words of the endower carry the meaning that appears to be what he wanted according to the established custom at the time of establishing the endowment, even if it does not agree with the linguistic rules.

Article (10)

1. If a valid condition accompanies the endowment, it must be implemented unless its implementation becomes not in the interest of the endowment or the beneficiary, or it defeats a legitimate purpose of the endower, in which case a judicial ruling may modify it.
2. If two valid conditions conflict, they must be combined whenever possible. Otherwise, the latter condition must be applied.
3. The endower may add new valid conditions to his endowment and delete or amend some of its conditions.
4. The endower has the right to stipulate the endowment of a share of the net investment returns of his endowment within the limits permitted by the executive regulations.
5. It is not permissible for anyone other than the endower or someone who stipulated for him to change the conditions of the endowment, except for the cases mentioned in this law and its executive regulations.

Article (11)

Any condition of the endowment that violates the Sharia provisions, the law (regulation), public order, or public morals shall be invalid.

Timing and perpetuity condition:

Article (12)

Civil endowment is only temporary for the maximum period stipulated in the executive regulations. The charitable endowment and the charitable share in the joint endowment may be temporary or perpetual, and if the endowment is absolute, it may be perpetual, in accordance with the provisions contained in the executive regulations.

Article (13)

As an exception to the provision contained in Article (12) of this law, the endowment shall be permanent in the following cases:

1. Endowment of the mosque.
2. Endowment of the cemetery.
3. Endowment of a person who dies without revoking his endowment if the endowment is of indefinite duration.
4. The endowment that a judge decides to perpetuate.

The endower's right to revoke, amend, and change the conditions of the endowment:

Article (14)

The principle of endowment is that it is necessary, and as an exception to this principle, the endower may revoke his endowment in cases other than those mentioned in Article (13) of this law. The endower also has the right to change and amend all or some of its conditions, and to delete whatever he wants from them, except what is stipulated in this law.

Article (15)

Taking into account what is stated in Article (14) of this law, the endower may not revoke his endowment nor change its conditions if it is proven that the entitlement to the endowment was made with financial compensation.

Revoking the endowment or amending its conditions shall not be considered valid until the procedures stipulated in the executive regulations are taken.

Chapter Four

Procedures for Establishing and Proving an Endowment

1. Procedures for establishing the endowment:

Article (16)

The deed for the endowment, and any amendments or revocations made to it, must be written and documented by the competent authority. The authentication authority is obligated to deliver a copy of the endowment deed, or the amendments made to it or the cancellation thereof to the authorities specified in the executive regulations.

Article (17)

The administrative authority responsible for endowment affairs must inform the public of the deed of the endowment that meets the effective conditions that will be established after the implementation of this law, and also explain its cancellation and any amendments to it. The executive regulations specify the conditions and procedures of its introduction, and the regulations also provide an example of an endowment deed for guidance.

Article (18)

Any interested party may file a grievance with the competent administrative authority against establishing the endowment, revoking it, or making any amendments to it, within a period not exceeding sixty days from the date of its notification.

Article (19)

If it becomes clear to the competent administrative authority that the endowment has not fulfilled its pillars or conditions for its validity or effectiveness, or if the correct measures were not taken to establish it, it may decide to stop the legal effects resulting from the introduction of the endowment. It may also take corrective measures in formal matters. However, if the pillars of the endowment and the conditions for its validity and enforcement are not met, the administrative authority must refer the matter to the judiciary.

Article (20)

Any interested party may appeal before the court the decisions taken by the competent administrative authority in the cases mentioned in Article (18) of this law, within a period not exceeding sixty days from the date of his notification of the result of examining his grievance or his certain knowledge of this result. Any interested party may also resort directly to the judiciary in

the cases mentioned in Article (18) of this law within the period specified in the aforementioned text.

2. Proving the endowment:

Article (21)

Endowments established before the implementation of this law may be proven by all legal methods of evidence. If there are no tools mentioned in the law to prove the endowment, then its proof must follow the provisions of Islamic Sharia. As for endowments that are established after the implementation of this law, they may not be proven except by a documented argument under what is stated in Article (16) of this law.

Chapter Five

Effects of Endowment

Article (22)

Taking into account what is stated in Article (7) of this law, the effects of the endowment shall occur as of the date of its introduction in accordance with the provisions contained in Article (17) of this law.

Article (23)

Taking into account what is stated in Articles (7) and (22) of this law, the endowment shall result from the date of its introduction as follows:

1. The endowment acquires an independent legal personality.
2. Ownership of the endowed funds shall be transferred to this legal person, and these funds shall have a special system.
3. Possession of the endowed property is transferred to the endowment.
4. The conditions of the endower are implemented.

Chapter Six

Managing Endowed Funds

At the level of each endowment:**Article (24)**

1. Each endowment shall have an administrator.
2. The endowment shall be administered by the endower, his appointee, or the person chosen by the competent court.
3. The endowment administrator may be one or more persons, natural or legal, who meet the conditions stipulated in the executive regulations of this law.
4. Endowments in which the value of the endowed funds exceeds the amount specified by the executive regulations shall be administered by a council composed of members, each of whom meets the conditions for administration. The rules specify the number of members, the tasks and authorities of the council, and its functioning system.

Article (25)

The administrator is the trustee of the endowment and an agent on behalf of the beneficiaries. The administrator is responsible for preserving the endowment's funds and rights, investing them, and spending the proceeds in legitimate ways, following the regulations contained in this law and its executive regulations.

Article (26)

The administrator is obligated to prepare an annual budget for the endowment, maintain accounting records and disbursement vouchers for not less than three years, and submit an annual report on the endowment according to the form prepared by the competent administrative authority, a copy of which shall be deposited with each of the following: the administrative authority responsible for endowment affairs, the Regional Union of Endowments referred to in Article (38) of this law, and the General Union of Endowments referred to in Article (32) of this law in the absence of a regional union.

Endowment accounts in which the value of the endowed funds exceeds the amount specified in the executive regulations are subject to the supervision of a certified auditor whose tasks and responsibilities and how he is selected are determined by the executive regulations.

Article (27)

1. The endower has the right to dismiss the administrator he appointed and appoint a new administrator for the endowment. If he does not appoint an administrator for the endowment, the court shall appoint an administrator for it.

2. The competent court may dismiss the endowment administrator for the reasons specified in the executive regulations and appoint an administrator to replace him unless the endower appoints an administrator to replace the dismissed administrator. The court may suspend the administrator until a ruling is issued in the case for his dismissal and the appointment of a temporary administrator. The competent court may also impose on him any of the other disciplinary penalties mentioned in the executive regulations.

Article (28)

The administrator of the endowment receives financial allowances determined by the endower. If the endower does not specify the amount of the administrator's fee, it will be determined by the administrative authority supervising the endowment, within the limits of the equivalent wage. The competent court may decide, for the administrator, a special reward if the net profits from the investment of endowment assets increase over the previous year by a rate of no less than 15%. The court shall determine the value of the reward.

Article (29)

The percentage of the administrative expenses of the endowment, including the wage of the administrator and the salaries of its employees, may not exceed a percentage of the endowment's revenues determined by the executive regulations. In cases of extreme necessity mentioned in the executive regulations, this percentage may be exceeded for a limited period and not exceed twice the percentage referred to.

At the state level:

A. Official organization:

Article (30)

Endowments are supervised by a governmental body responsible for providing care to endowment institutions, overcoming the difficulties they face, providing support to them, and ensuring the soundness of their work. The executive regulations determine the relationship of this governmental body with endowments in a way that does not affect the independence of these endowments following the provisions of this law and the executive regulations.

This authority is competent to implement the provisions of this law.

Article (31)

The administrative authority responsible for endowment affairs may refer to the official authorities, each within their field of work, any violations or transgressions in the management of endowment funds or violations of its regulations and provisions.

B. Civil organization:

Article (32)

A general union of endowments shall be established, which shall have a legal personality. The executive regulations shall determine the headquarters of the union and the conditions for the endowments that join it.

Article (33)

The General Union of Endowments aims to spread, expand, develop, and advance the endowment movement in the country. The Union, under what is contained in its statute and the plan drawn up by its board of directors, is responsible for planning, directing, coordinating, and supervising endowment work in a way that contributes to achieving its mission and objectives and enhancing its social role.

Article (34)

The General Union of Endowments is specialized in the following:

- Calling for and encouraging the endowment initiatives and spreading awareness of the endowment with a focus on the purposes that meet the most urgent social needs.
- Developing a general vision of the developmental, advocacy, social, and charitable role of the endowment.
- Establishing an expert house whose mission is to prepare endowment development systems and implementation mechanisms, address problems that limit their effectiveness, provide technical support to endowments, and prepare the regulatory and organizational structures of endowment institutions for guidance.
- Expressing an opinion on legislation and regulations related to endowments.

- Building bridges of communication between endowment institutions that work in similar fields, encouraging cooperation among them, and developing and increasing their joint investments.
- Establishing and managing endowment funds.
- Defending the interests of the endowments, taking the necessary measures to protect and preserve their rights, and guiding them in managing their business, especially in the areas of investment, fund development, and auditing.
- Establishing collective endowments linked to public needs such as education, health, and unemployment.
- Preparing a database for endowment data, and providing sufficient information about endowments, including studies, research, and local and international conferences concerned with them.
- Linking endowment work, civil society institutions, and official institutions.
- Coordinating between the projects undertaken by the endowments and their investments.
- Encouraging the establishment of ties and links with Islamic endowment organizations and regional and international institutions concerned with endowments to enhance endowment values and establish joint endowment partnerships, programmes, and projects.
- Providing technical support to endowment institutions in the legal, investment, cultural, and media fields, and providing accounting, financial, administrative, and legal support services to these institutions.
- Organizing preparation programmes, and technical and administrative training for endowment workers and those responsible for their supervision.
- Establishing external endowment institutions to serve Muslims abroad and supporting external Muslim endowments.
- Other powers mentioned in the executive regulations.

Article (35)

The management of the union is entrusted to both the general assembly and the board of directors. The general assembly consists of those responsible for the endowments, members of the union, whether they are supervisors or heads of boards of supervisors. Endowers and representatives of the relevant administrative authority have the right to attend the meetings.”

Article (36)

The chairman of the board of directors represents the union in its relations with third parties and before the judiciary. The chairman of the board is responsible for managing its affairs and is entrusted with implementing the decisions of the general assembly and the board of directors.

Article (37)

The Union's resources consist of the following:

- a. The endowments participating in the union shall contribute a percentage of their revenues determined by the executive regulations.
- b. Compensations for the services it performs and the activities it practices.
- c. Endowments allocated to it and donations, gifts, and charity approved by the Board of Directors.
- d. Subsidies allocated to it by the state

Article (38)

The union may form regional unions, and the executive regulations determine the rules for forming these unions, their powers, and their work systems.

Article (39)

The union establishes an endowment fund for social solidarity at the national level that contributes to addressing the phenomenon of poverty by providing support and care to economically vulnerable groups. The executive regulations determine the formation of the fund and its work systems.

Chapter Seven

Investing Endowed Funds

Direct investment:**Article (40)**

The endowment funds are invested in safe investment areas that do not violate Sharia provisions and generate an appropriate return, with priority given to investment that has a social return. The executive regulations specify the terms and conditions of investment.

Indirect investment:**Article (41)**

The administrator may entrust the investment of endowment funds, or some of them, to specialized parties. The executive regulations specify the conditions of the institutions that are dealt with, the terms of dealing, and the appropriate Sharia investment formulas.

Substitution and Exchange:**Article (42)**

It is permissible to substitute and exchange suspended objects if it serves an interest and the conditions stipulated in the executive regulations are met and the procedures contained therein are followed.

Cases of default in investment:**Article (43)**

The administrator must invest properly in the endowment funds, and he is considered negligent in investing the endowment funds if the investment return in two consecutive years is less than the average return of the endowments that invest their funds in similar investment areas. If it is proven that the endowment administrator was negligent in investing the endowment funds, the competent administrative authority and every interested party may refer the matter to the judiciary.

Reserving allocations:

Article (44)

Endowed assets must be preserved and protected from damage or vandalism and anything that leads to a decrease in their benefit, and the endowment redeveloping is given priority over everything else. Appropriations must also be made to provide the necessary funds to replace endowed assets in the event of loss or damage or to reconstruct them, per the rules of the executive regulations.

Chapter Eight

Eligibility for the Endowment

Entitlement to proceeds:**Article (45)**

The proceeds from the endowment shall be spent according to the expenses specified by the endower, taking into account what is stated in this law and its executive regulations.

Article (46)

The rights of the beneficiaries to the endowment relate to its proceeds or benefit, not to its assets. The entitlement relates to the benefits of the endowed funds only if the endower stipulates that. It is permissible for the beneficiaries to be entrusted with the use of the endowment assets themselves, according to their respective shares in it under the provisions contained in the executive regulations.

Cases in which acceptance is required for entitlement:**Article (47)**

Acceptance for entitlement for the endowment is required if the beneficiary is an entity that has a legal representative, or a person appointed in his name. If he is incapable or lacking in capacity, acceptance shall be given to the person who takes care of his affairs following the provisions of the law.

Cases of loss of entitlement:**Article (48)**

Entitlement to the endowment is forfeited by a specific person who rejected his entitlement. It also applies to whoever kills the endower, one of the endower's ascendants, descendants, one of his relatives up to the fourth degree, or kills someone from whom he receives the benefit, whether the killer is an original perpetrator, an accomplice, or a false witness whose testimony led to any of them being sentenced to death and it was executed. The forfeiture of a right according to the above does not affect the entitlement of his descendants if they are among those entitled to the endowment.

Cases of spending in expenditures not specified by the endower:

Article (49)

It is permissible to use endowment assets or to spend its proceeds on areas not mentioned in the endowment's deed in cases where the conditions stipulated in the executive regulations are met, provided that the endower approves if he is alive or obtains judicial permission in the event of the death of the endower.

Article (50)

Taking into account what is stated in Article (45) of this law, if the proceeds of the endowment are needed by one of the endower's ascendants, branches, spouses, or relatives up to the fourth degree, it shall be disbursed to the needy among them in a way that meets his basic need in the cases specified by the executive regulations. A judicial ruling shall be issued regarding it, provided that the total amount allocated annually for this purpose does not exceed a percentage of the endowment revenues determined by the executive regulations.

Article (51)

Taking into account what is stated in Article (45) of this law, the administrator of the endowment may spend the proceeds of the charitable endowment or the charitable share in the joint endowment or use its assets to mitigate the effects of public disasters in which the endowment is subject under the rules contained in the executive regulations and by following the procedures contained therein.

Article (52)

Every endowment whose annual revenue reaches the amount specified by the executive regulations is obligated to allocate, from its income, the percentage determined annually by a decision of the board of directors of the general union of endowments to finance the social solidarity fund in an amount not exceeding ten percent of the net annual revenue of the endowment.

Article (53)

Proceeds from the following are directed to all good deeds:

1. An endowment for which the endower has not specified any expenses.
2. An endowment whose expenses cannot be known.
3. An endowment for which the rightful person is not known, or the news of the endowment has been cut off, or their descendants have disappeared.
4. Endowment on a specific person if he/she declines the entitlement and there is no other beneficiary after him/her.
5. The endowment for a charitable purpose that no longer exists, is no longer needed, or has sufficient financial resources from other sources.

A percentage of the proceeds from all charitable causes shall be allocated to the Social Solidarity Fund as determined by the executive regulations.

Distribution of shares in the joint endowment:

Article (54)

If the endowment is shared and there is no provision in the endowment's deed for distributing shares, the proceeds shall be divided equally between deserving individuals and charitable entities. If the endowment includes salaries that are not estimated, it will be estimated by the court.

A special ruling regarding entitlement to offspring:

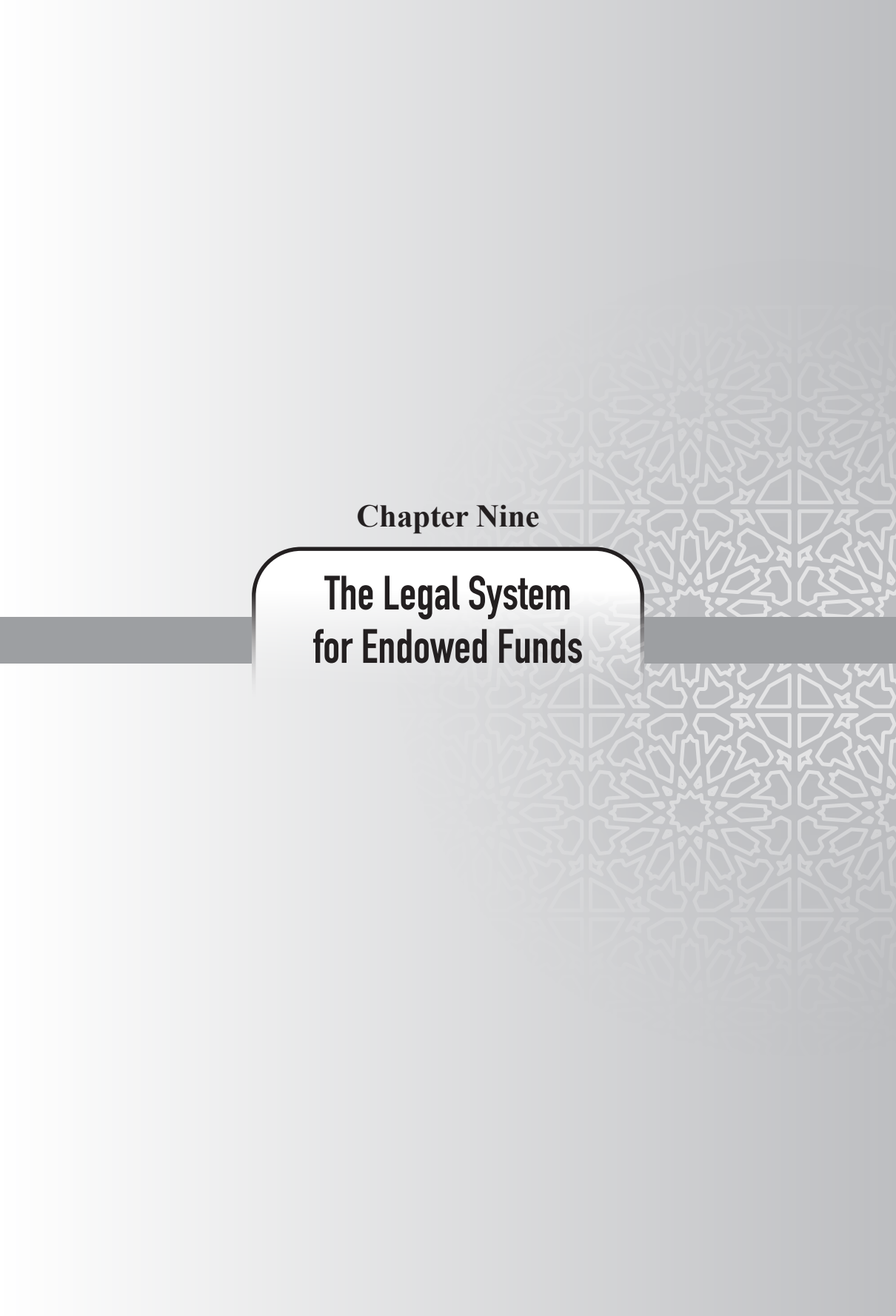
Article (55)

If it is a family endowment and stratified, and one of the beneficiaries dies or is deprived of the endowment, it is necessary to follow the conditions of the endower, if any, concerning his share, otherwise, his share shall be for his branch. If the deceased has no descendant, his share will be given to the person in his class. If there is no one in his class, his share will be for the next class. If an additional child is born into this class, his class's entitlement will be resumed as of the date of the birth of the child.

The passage of time and its effect on entitlement:

Article (56)

When denied, the lawsuit related to entitlement to the endowment will not be heard if the concerned party does not take measures to establish it before two years have passed from the time he became aware of the entitlement.



Chapter Nine

The Legal System for Endowed Funds

Impermissibility to dispose of or mortgage endowed funds:**Article (57)**

Endowed funds may not be disposed of, mortgaged, or enforced except in the cases stipulated in this law and its executive regulations.

Invalidation of the seizure or ownership of endowed funds by statute of limitations:**Article (58)**

Seizing endowment funds, owning them, or obtaining a right in rem over them shall be invalidated by a statute of limitations, and any infringement on endowment funds shall be paid through the administrative method in accordance with the laws prevailing in the state.

Permissibility of separating endowed funds:**Article (59)**

Every beneficiary of the endowment, and the administrator of the charitable share, may request the court to separate his share, provided that the endowment funds are divisible, and that the division does not cause harm to the endowment or its beneficiaries.

Endowed funds enjoy some privileges:**Article (60)**

Endowment debts enjoy the privilege that government debts have over the debtors' funds, and they are collected using the methods established for collecting state funds.

Article (61)

endowed funds may not be used for any projects, commitments, or contributions that do not comply with the Sharia provisions.

Article (62)

Charitable endowments and the charitable share of joint endowments are exempted from any taxes, fees, and publishing expenses that the laws and regulations require to be published in the Official Gazette. Charitable endowments and the charitable share of joint endowments are also exempt from judicial fees at all levels of litigation.

Article (63)

In applying the provisions of the penal laws, charitable endowment funds and the charitable share of joint endowments are considered public funds. Moreover, its papers, registers, books, documents, and electronic receptacles for information are considered official papers, and the administrator of the endowment and its employees are considered public employees.

Chapter Ten

Terminating the Endowment

Article (64)

The endowment is terminated in the following cases:

1. The end of the period specified for it if the endowment is for a limited period, taking into account what is stated in Article (13) of this law.
2. Fulfilling the purpose specified by the endower for the endowment, except in cases outlined in this law.
3. The endowment terminates upon the extinction of its beneficiaries, with each share ending when its designated beneficiaries cease to exist.
4. The endower revokes his endowment in legally permissible cases.
5. If the beneficiaries' shares are reduced according to their social conditions, and it is not possible to replace them with another property that would generate an appropriate revenue for the beneficiaries in place of the endowed money.
6. If it is proven that the endower intended his endowment to deprive the heirs, or some of them.
7. Destruction, vandalism, or destruction of the seized objects.

The endowment may be partially terminated in the cases specified in the executive regulations.

Article (65)

Any endowment that violates the provisions of this law is invalid and has no legal effect.

Article (66)

The end of the endowment and its invalidation shall be by a ruling from the competent court, and the ruling issued terminating or invalidating the endowment must be notified on time following the procedures stated in the executive regulations.

Article (67)

The competent court hearing the case must include in the lawsuit the administrator, the competent administrative authority, the General Union of Endowments, the regional union, the endowment if he is alive, or one of his heirs in the event of his death.

The termination or invalidation of the endowment does not affect the rights that may have accrued to others over the endowment in the period preceding the issuance of the ruling to terminate or invalidate it if the third party is in good faith.

Article (68)

If the endowment ends, the endowed funds pass to the endower if he is alive and to his heirs if he is deceased.

Chapter Eleven

Special Provisions for Some Types of Endowments

Endowment for public needs:

Article (69)

It is permissible to endow charitable goods and benefits through public facilities managed by the state or a public legal entity or through entities for public benefit, or through an endowment.

Article (70)

The provisions of this law shall apply to endowments for public utilities and public needs, except for the following:

1. If the public need ends, the competent court may authorize the transfer of the endowment proceeds to another public need.
2. The endower may not revoke his permanent endowment except for emergency reasons determined by the executive regulations and estimated by the competent court. Revocation of the endowment may be limited to a portion of the endowed funds, according to what the competent court deems appropriate.
3. It is not permissible to revoke the temporary endowment before the end of its term, except for the cases stipulated in the executive regulations.
4. The temporary endowment turns permanent if the temporary endowment expires and the endowment continues with the consent of the endower if he is alive, or the consent of the heirs if he is deceased. If some of them agree and others do not agree, the endowment is considered permanent concerning the shares of those who agreed.
5. Any condition of the endower that does not comply with the laws and regulations of public facilities and public needs is considered invalid.
6. If the endowment is designated for a public facility or a public entity, and the endower appointed an administrator, the role of the latter is limited to preserving, developing, and investing the endowment funds, delivering the proceeds to the entity to which the endowment is granted, and ensuring compliance with the conditions of the endower.

Collective endowment:

Article (71)

It is permissible to have multiple endowments for one purpose or multiple purposes within one endowment deed or multiple endowment deeds. They will be combined on the condition that their conditions are similar, in accordance with the provisions contained in the executive regulations.

Article (72)

It is permissible to join a collective endowment while adhering to its conditions.

Article (73)

It is not permissible to change the conditions of a collective endowment except with the agreement of all living endowers.

Article (74)

The provisions relating to endowments to satisfy the public needs mentioned in Article (70) of this law apply to collective endowments.

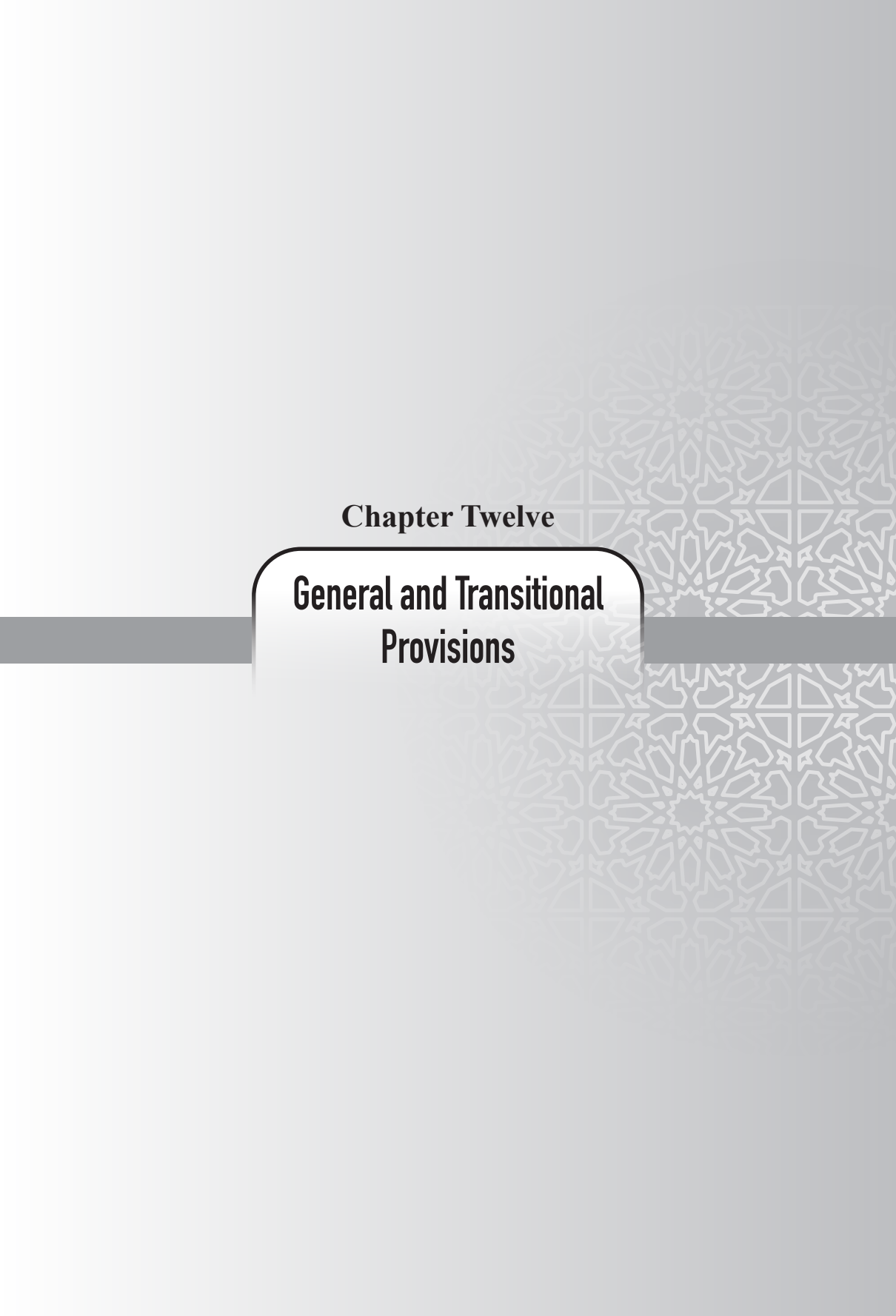
Small charitable endowment:

Article (75)

It is permissible to include charitable endowments whose purposes are compatible and whose return value in the last three years is less than the amount specified in the executive regulations. The annexation shall be by judicial ruling

Article (76)

The legal personality of the annexed endowments ends from the date of issuance of the ruling, and a new legal person is created in the name of all the merged endowments. The rights and obligations of the merged endowments are transferred to him, and the court appoints an administrator from among the administrators of the merged endowments or from others.



Chapter Twelve

General and Transitional Provisions

Article (77)

Any institution established after the issuance of this law, and not subject to its provisions, may not include in its name the word “Waqf” (endowment) or its derivatives.

Article (78)

The administrators of endowments established before the implementation of this law must provide the competent administrative authority, the general union of endowments, or the regional union with comprehensive information about the endowments that they manage, and copies of their deeds and any relevant documents within the dates stated in the executive regulations.

Article (79)

When considering any matter related to the endowment, the court must involve in the case the competent administrative authority, the regional union, in whose jurisdiction the endowment is located, the endower, if alive, and the administrator of the endowment.

Article (80)

Final rulings issued before the implementation of this law are valid between its parties, even if they are not in agreement with the provisions contained in this law. The Public prosecution must intervene in endowment lawsuits, otherwise the ruling will be invalid.

Article (81)

A person wishing to establish an endowment or to join an existing endowment may delegate the competent administrative authority to take official procedures on his behalf. The endower may also delegate the competent administrative authority to amend the deed of the endowment under the procedures stated in the executive regulations.

Article (82)

Everything for which there is no provision in this law shall be referred to the prevailing jurisprudential doctrine in the state.

Article (83)

Endowment cases are assigned to specific circuits in the competent court, within whose jurisdiction the endowment is located, and it is solely concerned with state cases and requests related to the endowment.

Article (84)

The competent administrative authority, the general union of endowments, the regional union, and the administrator of endowments must take measures to recover the endowed funds from those who seized them without legal justification. They also need to take measures to register endowments that have disappeared and some of their funds remain.

Article (85)

Any interested party may request from the entity in charge of the endowment's affairs any information, data, or copies of documents related to the endowment's funds, activities, and accounts, in exchange for paying the appropriate administrative expenses.

Article (86)

If the entity in charge of endowment affairs refrains or is slow in providing the concerned party with the information, data, or copies of documents he requests without an acceptable reason, the concerned party has the right to resort to the judiciary, which has the right to order what it deems appropriate. In such a case, the party in charge of the endowment may be fined an amount not less than () and removed from the endowment administration, or either.

Explanatory Memorandum

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Introduction

1. The Status of Endowment in Islam:

Previous religions defined the endowment as the confinement of property to a certain entity to benefit from its profits. However, what distinguishes Islam in this regard is the expansion of the endowment purposes and the extension of its goals to areas that no other religions have preceded it.

In the religions that preceded Islam, endowment was limited—in most cases—to places of worship, such as churches and temples, and what is endowed to these places.

As for true Islam, with the tolerance of its principles, the loftiness of its values, the humanity of its goals and intentions, and the nobility of its purposes and directions, it has expanded the roots of the endowment. In addition to mosques and what is endowed to them, it has extended the goals and purposes of the endowment to include many other matters that do not stop at a limit, but rather are renewed with the renewal of the needs of human societies. It grows according to the requirements and secretions of its development within the framework of Islamic legitimacy.

Above lies the secret of the effectiveness of the endowment in Islamic history, and its influential and effective role in the growth and development of Islamic societies. This role was more prominent and urgent during periods of laxity and weakness of the Islamic state, as the endowment was fulfilling the missing roles that the state was supposed to play, in the developmental and humanitarian fields developing human resources, and caring for vulnerable groups in society. Rather, its role extended to the fields of defending Islamic countries, liberating prisoners, treating war-wounded people, caring for their families, and other similar fields.

The role of the endowment, as the most important institution of civil society, is highlighted in light of the application of the philosophy of the so-called guardian state, in which the role of governments is limited to providing security and justice and regulating the state's relations with other countries, as well as organizing the movement of society without interfering in it. In light of these systems in which the state is unable to provide services and care for vulnerable groups, the endowment is active in covering these areas and working to meet societal needs. Besides, the steps of the endowment

slow down, and the level of performance of its mechanisms weakens, during periods in which the state's role in providing services and caring for incapable groups is active. With the expiration of this period, after most countries of the world returned, in varying degrees, to the philosophy of the guardian state, Muslim societies expect multiple and vital roles from the Islamic endowment in various development fields, especially in the areas of human resources development (education and training) and the provision of basic services to incapable groups (health; ...etc.) and caring for vulnerable groups.

If contemporary civilization, after long hardship and difficulty, achieved what it considers the key to progress, represented by popular contributions to building societies through civil society organizations, then Islamic endowment, with its ancient heritage and distinguished historical role, is more advanced than earlier ideas, has the deepest expertise, the greatest experience, and more jurisprudence and organization.

Islamic endowment, as an organization of a non-governmental nature, played a major role in advancing the movement of the progress of Muslim societies throughout the stages of Islamic history, whether in periods of the brilliance and prosperity of Islamic civilization or in stages of its stagnation and decline.

The interest of the Islamic world in endowment is therefore renewed, as it is the Islamic formula for charitable and voluntary work through which popular participation is achieved in the efforts made to advance Islamic societies, and as the best legal and legislative formula and templates to achieve this participation.

Endowment is distinguished from other popular forms of participation by the following:

First: The Islamic character of endowment was achieved in deference to its rules and provisions, the preservation and improvement of its objects—in most cases—from the oppression of the rulers and the aggression of the public, for fear of violating the Shari'a rulings and considering that the endowment funds, in jurisprudential opinion, belong to Allah the Almighty.

Second: The lawful nature of the rules regulating endowment protects them from tampering or tweaking them to serve special interests. In fact, those who have drawn up and continue to extract endowment rulings and interpret them are specialists in lawful matters.

Third: The religious incentive granted by the spiritual nature of endowment

increases the demand for it because the endower satisfies his spiritual feelings, follows the Sunnah of his Prophet, may Allah bless him and grant him peace, and expects reward from Allah, Glory be to Him, in his life and after his passing.

Fourth: The Islamic endowment system ensures the continuity of resources because spending is taken from the profits, not from the original endowed funds. This achieves stability in financing the development and humanitarian projects established by the endowment, in contrast to projects of a voluntary nature that do not take the endowment formula. It is noted that many of these projects suffer from weaknesses, withering, and collapse due to their lack of resources of a permanent nature.

For the above reasons and others, the Islamic endowment has a unique and high status, compared to other ancient and modern voluntary systems. It also explains the growing interest of Islamic societies in the endowment, their rallying around it, the demand to renew our codification of its provisions, and the agreement of the ministers of Islamic affairs in the Islamic world to prepare an economic law project for endowment. The countries of the Islamic world are guided by the provisions contained therein when developing their endowment legislation.

2. The Legislative Founding of Endowment:

First: The Holy Qur'an:

In Sūrat Āl-‘Imrān (verse 92), Allah said *“By no means shall you attain Al-Birr (piety, righteousness — here it means Allāh’s Reward, i.e. Paradise), unless you spend (in Allāh’s Cause) of that which you love; and whatever of good you spend, Allāh knows it well. And in Sūrat Aṣ-Ṣaff, Allah said (verses 10-12) “O you who believe! Shall I guide you to a trade that will save you from a painful torment? (10) That you believe in Allāh and His Messenger (Muḥammad Peace Be Upon Him), and that you strive hard and fight in the Cause of Allāh with your wealth and your lives: that will be better for you, if you but know! (If you do so) (11) He will forgive you your sins, and admit you into Gardens under which rivers flow, and pleasant dwellings in ‘Adn (Eden) Paradise; that is indeed the great success (12). And in Sūrat Yā-Sīn (verse 12), Allah said “Verily, We give life to the dead, and We record that which they send before (them), and their traces and all things We have recorded with numbers (as a record) in a Clear Book.* The endowment is one of the effects that a Muslim leaves behind after his passing.

Second: The Sunnah of the Prophet (his sayings):

The saying of the Prophet (Peace Be Upon Him): “When a man dies, his deeds come to an end except for three things: Sadaqah Jariyah (ceaseless charity); a knowledge which is beneficial, or a virtuous descendant who prays for him (for the deceased).” The ongoing charity mentioned in the previous Prophetic hadith is fulfilled through the endowment.

Third: The Sunnah of the Prophet (his actions):

The Prophet (Peace Be Upon Him) endowed seven walls that “Mukhayriq” bequeathed to him when he was killed in Uhud. Following Allah’s guidance, the Prophet endowed these walls for the benefit of people.

Ibn ‘Umar narrated that ‘Umar (may Allah be pleased with him) got some land in Khaybar and went to the Prophet (Peace Be Upon Him) asking his command regarding it and said, “O Allah’s Messenger, I have acquired a land in Khaybar which is the most valuable property that I have ever acquired.” He replied, “If you wish you may make the property an endowment and give its produce as Sadaqah.” So, ‘Umar (may Allah be pleased with him) gave the land as Sadaqah (in endowment on the condition) that it must not be sold, inherited, or given away. And he gave its produce as Sadaqah to be devoted to the poor, relatives, the emancipation of slaves, in Allah’s Cause, for travelers and guests. There is no sin upon the one who administers it if he eats something from it in a reasonable manner or gives something to a friend to eat, provided he does not store anything as goods (for himself).

Fourth: What the righteous predecessors were accustomed to:

It has been proven that many of the Companions (may Allah be pleased with them) endowed some of their wealth to their children and to others who wished to be related to them, and to charitable and benevolent causes, following the example of the Sunnah of the Prophet (Peace Be Upon Him) and out of a desire to earn reward and recompense. Nothing is more indicative of the Companions (may Allah be pleased with him) racing to the Sunnah of endowment than the statement of “Ibn Qudamah” who mentioned that “Jaber” said: All of us, the able Companions of the Prophet, endowed some of their wealth as charity that cannot be bought, inherited, or given away, and this is a consensus among them, for the one who was able to endow did so, and that is

well-known, no one denied it, so it was a consensus.”

It has been historically established that endowments were numerous in the Umayyad era in Egypt, the Levant, and other conquered countries thanks to the availability of funds among the Mujahideen (i.e., strivers or strugglers).

There are many wonderful examples of the Islamic endowment in Islamic history books which abound with evidence of the righteous predecessors’ interest in endowment. The history of every Islamic country also includes large numbers of endowments, in various eras, and in all Muslim societies, which confirms the sincerity of Muslims’ attitude towards the Sunnah of the endowment.

3. Regulating the State’s Relationship with Endowment

Endowments were independent and completely separate from the state administration. The endowment funds were under the authority of their overseers until the judge of Egypt in the time of ‘Hisham bin Abdul Malik,’ “Tawbah bin Numayr,” established an endowment office. The endowment funds were in the hands of their owners and the overseers, which aroused the judge’s ire, so he said, “These alms should not be given but to the poor and needy, so I think I should put them under my custody, to protect them from being lost and inherited.”

With the development of government departments, endowment offices developed until they became ministries or public bodies under contemporary governmental systems. This did not affect the independence of the endowment, its legal personality, and the continued performance of its multiple roles under the mandate of the endowment overseers and the supervision of the judiciary.

Deciding on matters, issues, and disputes related to endowment affairs requires referring to Islamic jurisprudence, which is characterized by its richness and the multiplicity of jurisprudence on the same issue between different Islamic sects, and even within every Islamic sect. This has led to the need to establish a codification of the provisions of the endowment, following contemporary legal patterns derived from Islamic law, which is what most Islamic countries have adopted.

To unify the overall foundations and provisions on which endowment is based in Islamic countries, the Ministers of Endowments and Islamic Affairs assigned the State of Kuwait, the coordinator of the efforts of Islamic countries in the field of endowment, to prepare a draft model law for endowments, with

which the Islamic Development Bank participated in financing and managing the process of preparing the attached draft.

4. General Definition of the Project:

4.1. The Project Consists of (86) Articles Distributed into (12) Chapters:

Chapter One: Definition of endowment and its types

Chapter Two: The pillars of endowment and the conditions for its validity and enforcement

Chapter Three: The conditions of endowment

Chapter Four: Procedures for establishing and proving an endowment

Chapter Five: Effects of endowment

Chapter Six: Managing endowed funds

Chapter Seven: Investing endowed funds

Chapter Eight: Eligibility for the endowment

Chapter Nine: The legal system for endowed funds

Chapter Ten: Terminating the endowment

Chapter Eleven: Special provisions for some types of endowments

Chapter Twelve: General and transitional provisions

4.2. General Directions of the Project:

First: Commitment to the lawful provisions of the endowment by not adhering to the jurisprudence of one doctrine, but rather exploring the various doctrines of jurisprudence and taking from them and contemporary jurisprudence.

Second: Seeking rules and regulations that fall within Sharia frameworks, respond simultaneously to contemporary needs and facts, and do not conflict with the social, economic, and political interests that govern the development of Islamic societies.

Third: Benefiting from contemporary literature, whether in matters related to endowment or from modern similar systems that do not conflict with the Islamic endowment system, based on the saying of the Prophet (Peace Be Upon Him) that wisdom is a believer's desired goal which he is most deserving of should he find it.

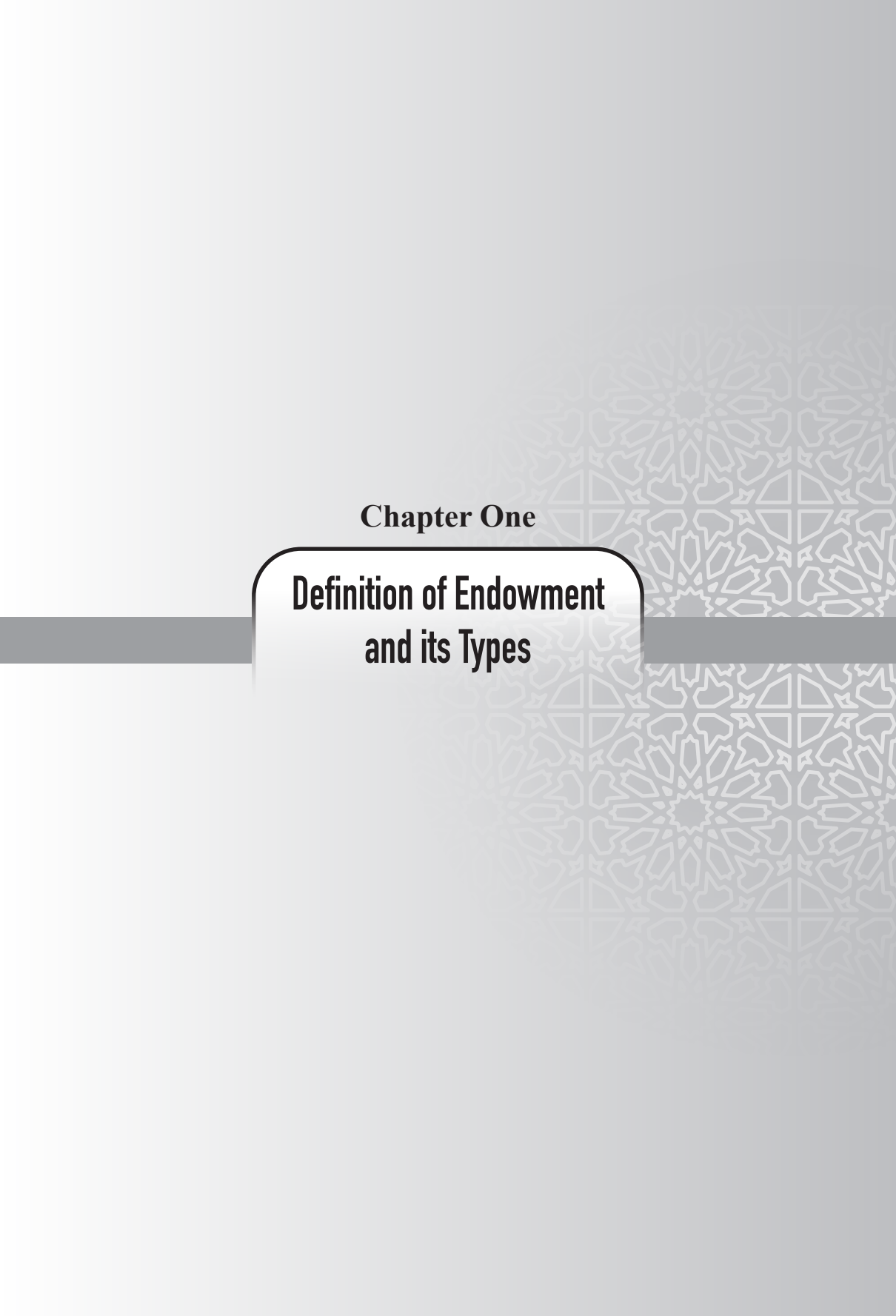
Fourth: Benefiting from studies related to endowment and similar systems, especially recent studies, whether conducted within the Islamic jurisprudence framework or existing practices in other frameworks.

Fifth: Benefiting from the experiences of endowment in Islamic countries, and endowment laws and systems in effect in these countries.

Sixth: The draft law should include the general endowment rules and its overall provisions in a flexible manner, considering differences in economic and social circumstances and the multiplicity of schools of Islamic jurisprudence.

Seventh: Referral to the executive regulations for detailed matters and partial rules that are not covered by laws, and may differ from one Islamic country to another, and even from one historical stage to another.

We will present below the main rules and provisions contained in the draft law in the order they appear in its articles.



Chapter One

Definition of Endowment and its Types

This chapter includes a definition of endowment elicited from the interpretations of Islamic jurisprudence, as well as an explanation of the sections and types of endowment to standardize the main terms used in the law, facilitate the extraction of the provisions contained therein, and to reduce the differences in interpretation of the provisions contained in the articles of the law.

Article (1)

This law allocated the First Article to the definition of endowment, and this definition contained in the draft does not resolve the dispute in Islamic jurisprudence over the definition of endowment. Rather, this definition applies only in the areas of interpretation and implementation of the provisions of the law.

Endowment has multiple definitions in Islamic jurisprudence. Based on what is most likely to them, the Shafi'is defined endowment as: "Endowing money to be used while maintaining its property and cutting off its disposition to an existing permissible expenditure." In another definition by the Shafi'is, endowment is "Endowing money to be used while maintaining its property and cutting off its disposition to a permissible expenditure"⁽¹⁾.

The Malikis define endowment as "making the property an owned benefit, even if it were owned for a fee, or making its revenues, for a deserving person in a form and period determined by the endower"⁽²⁾. As Imam ibn Arafah defines it, endowment is "endowing the profit of a property for as long as it exists, mandating that the property remains in the possession of the endower"⁽³⁾.

In Hanafi jurisprudence, the Imam Abu Hanifa defines waqf as: "The assignment of a property in the ownership of the endower (waqif) and the disbursement of its usufruct in general"⁽⁴⁾. The two companies (of Imam Abu Hanifa) define it as: "The assignment of a property under the rule of God's ownership and the disbursement of its usufruct to whomever is desired"⁽⁵⁾.

(1) Nihayat al-Muhtaj on Hashiyat al-Shabrani, 5/358, Tuhfat al-Muhtaj with Hashiyat al-Sharmani, 6/235, and Rawdat al-Talibin, 5/314 and 322.

(2) See Al-Sharh Al-Saghir, 2/296-297.

(3) Explanation of Hudud Ibn Arafah by Abu Abdullah Muhammad Al-Ansari, famous for Al-Rassa', page 581.

(4) Fath al-Qadir, 5/40; and Hashiyah Rad al-Muhtar 'ala al-Durr al-Mukhtar, 3/357-358.

(5) Hashiyah Rad al-Muhtar 'ala al-Durr al-Mukhtar, 3/357-358.

On the other hand, Hanbali jurisprudence defines the endowment as “the endowment of the property and the granting of its fruit”⁽¹⁾, which means “the endowment of the property and giving the benefit”⁽²⁾.

This law adopted the last definition for its simplicity and did not include details that will be stated in subsequent articles.

According to this text, the endowment is the legal disposition that leads to removing the endowed money from the circle of legal dispositions that lead to the transfer of ownership immediately (sale contract, gift, donation, etc.) or may lead in the future to the transfer of ownership (mortgages of all kinds).

Article (2)

The second article outlines the classifications of waqf as defined by contemporary jurisprudence. It distinguishes between charitable waqf (public waqf), for which charitable entities are responsible from start to finish, and family waqf (private – descendible waqf), whose benefits are designated—according to the endower’s conditions—for specific individuals by name or characteristics (such as children, grandchildren, neighbors, or others), with the benefits ultimately reverting to a charitable cause.

As for the joint endowment, it is the one that brings together the benefit of philanthropic entities and specific individuals.

Article (3)

Article Three includes a distinction between two types of charitable endowments, as is currently being done. The first type is an endowment for public goods and benefits that benefit unspecified people, such as an endowment for developing education or providing health care. etc., without specifying the people who profit from these public benefits. As for the second type, the benefits are allocated to people whose characteristics are identified, such as allocating the benefits of the endowment to the poor and needy or educating them and treating their patients.

(1) Al-Mughni, 5/597.

(2) Al-Insaf by Al-Mardawi 7/3.

Chapter Two

The Pillars of Endowment and The Conditions for its Validity and Enforcement

The project devoted this chapter to explaining the rules for the elements of endowment which do cease to exist unless they are fully present, and the conditions that must be met for the endowment to be valid, in addition to explaining the requirements of effective endowment.

Articles (4) and (5)

Articles Four and Five define the pillars of the endowment which are represented as follows:

The endower may be one or more people. The endower may be an individual or a legal person, and he may be one or more individuals with one or more legal persons.

The will of the endower or endowers must be directed towards the endowment, as endowment is a voluntary act with its components, in this capacity.

The endowment is determined in a form by which the endower or endowers express the will of the endowment, which is concluded in any form that indicates it, verbally if possible, or if the endower is unable to speak, the endowment is concluded in writing or by gesture if he is not good at writing or is incapable of doing so. An endowment is also validly concluded if it is accompanied by something that indicates the will of the endower, such as someone who establishes a mosque, a cemetery, or a waterway, and gives permission to people to use it.

The endowed property must meet a set of conditions stipulated in the law.

Those endowed upon, whether they are charitable organizations or individuals identified in person or whose characteristics are specified.

Article (6)

The project allocated Article (6) to describe the conditions for the validity of the endowment:

It is stipulated that the endower must be eligible for donations because endowment, according to the opinion of the majority of jurists, is considered a type of donation. Therefore, for the endowment to be valid, the endower must be a sane adult who fulfills the conditions for donation eligibility according to the legal system in the country.

The law stipulates that the endowment must be money permitted to be used legally, whether it is real estate, movable property, a common share, or money.

This also applies to the value of participation in companies, whether they are called stocks or shares.

The endowment may be real estate or movable property, thus endowing either of them is permissible, and endowing common property is valid, whether it is divisible or not, based on the opinion of Abu Yusuf. The Malikis also saw the validity of endowment of what is owned, even if it is shared in what is divisible. As for the common endowment in what cannot be divided, there are two opinions regarding its validity.

To expand the reach of the people, and to facilitate the endowment, it was decided to adopt the previous opinion in the project, with the exception of the endowment of the mosque or cemetery as endowment property must be separated, as well as if the rest of the property is endowed for any of the two previous purposes.

Endowing movable things is permissible according to many jurists, just as the endowment of money is permissible. Hanbali jurists and others have ascertained this. Additionally, it is permissible to endow benefits and rights.

The law requires that the endowed property must be something that is legally permissible to use and that it is utilized in a lawful manner for purposes, tools, and means that do not contradict the provisions of Islamic law. However, the law permits the endowment of property that has been used in a way that does not comply with Islamic rulings, provided that the administrator commits to changing its use so that it becomes compliant with Islamic rulings.

The law requires that the beneficiary from the endowment be a charity and not a party to which it is forbidden to make an endowment. The aspect of righteousness is part of the truth and meaning of endowment, in addition to the requirement that the party not be sinful, such as merchants in wine. Therefore, the endowment is valid for everything in which there is no sin whether it is an apparent charity, such as an endowment for the sick and poor, or whether it is not an obvious charity, such as an endowment for the rich, or for those who do not need it. In addition, the law added a condition for the beneficiary if the endower is non-Muslim, which is that the beneficiary must not be a party forbidden in his law and must not be a party prohibited in Islamic Sharia. This is the Hanafi view; Ibn Abidin said: “As for the endowment of the non-Muslim, it is required that it is a common charity between us and them, such as the endowment for the poor or the Jerusalem Mosque, except if the endowment is meant for sale, which is a charity for them only, or Hajj and Umrah, which is

a charity for us only⁽¹⁾.”

Article (7)

The endowment shall not be implemented nor shall its legal effects, under what is stated in Article (7) of the law, unless certain conditions specified by the aforementioned article are met.

An endowment that is validly established after the enactment of this law requires the completion of the waqf establishment procedures outlined in Chapter Three of this law in cases where such procedures are necessary for its legal effects to take place. However, the failure to follow the proper procedures for establishing the waqf, as stipulated by the law, does not render the waqf invalid. Rather, the waqf remains valid, but the legal effects associated with it are suspended until the required procedures are completed.

A waqf whose value exceeds one-third of the estate of the waqif at the time of his death shall not be executed if it is a waqf added to take effect after death or a waqf made during death-illness, except with the approval of the heirs for the amount exceeding one-third; the waqf shall be executed within one-third of the estate without the need for approval, as the law has considered the waqf issued by a person during death-illness and the waqf added to take effect after death as being in the same position as a bequest, in accordance with the opinions of some jurists, among them Ibn Qudamah, one of the Hanbali jurists, who stated that “a waqf made during death-illness is equivalent to a bequest in that it is considered from one-third of the property; if it falls within one-third, it is valid without the consent of the heirs, and whatever exceeds one-third, the excess is subject to the approval of the heirs”; likewise, a waqf exceeding one-third of the waqif’s property at the time of his death shall not be executed except with the approval of the heirs.

A waqf established by a debtor whose debt encompasses all his property at the time of the waqf shall not be executed except after the creditor’s approval or the settlement of the debt, so that the waqf, with its intended purposes of charity and benefit, may not be used as a means of evading the payment of debt by placing the debtor’s property in waqf; this is in accordance with the Maliki school, which holds that such a waqf does not take effect if the debt exhausts the financial liability of the endower.

To execute the endowment, the law requires the termination of the mortgage

(1) Rad Al-Muhtar on Al-Durr Al-Mukhtar 3/360

on the endowed property because one of the most important effects of the mortgage is that it allows the debtor to dispose of the mortgaged property, and allows the creditor what is called in the law the right of appropriation; that is, the right of the mortgaged creditor to execute on the mortgaged property to fulfill his right against the person to whom ownership of the mortgaged property has been transferred, or any other right in rem without being personally responsible for the debt, and this right established under the mortgage contradicts the nature of the endowment. Therefore, for the endowment of the mortgaged property to become effective, the law requires the termination of the mortgage, or what is legally called the purification of the mortgaged property.

Article (8)

To resolve any dispute and avoid any suspicion, Article (8) of the project excluded from among the conditions for the execution, validity, and enforcement of the endowment some matters about which controversy might arise or which opinions might diverge.

It is not required that the endower be a Muslim, which is the doctrine of Al-Shafi'i and Abu Hanifa, as it is valid—according to them—to make an endowment from an infidel, even for a mosque, even if he does not believe it to be a pious deed as do we⁽¹⁾. However, according to the Malikis, Sheikh Khalil said: “The endowment of a non-believer for a mosque, a religious village, and a ribat is invalid, but as for worldly deeds such as building bridges, waterways, and the like, it is valid⁽²⁾”.

It is also not a condition of acceptance of the beneficiary, whether he is specific or not, and the prevailing opinion among jurists is that the acceptance of the beneficiary who is not specific is not a condition for the establishment or validity of the endowment. However, if the endowment is for a specific person, the Shafi'is stipulate that the acceptance of the beneficiary must be connected to the approval of the endower. The Hanafis adopt the previous opinion. However, if the endowment is for a specific person and he rejects it, then the yield goes to the poor⁽³⁾. The Maliki doctrine does not stipulate that the recipient be accepted unless he is specific and worthy. If the beneficiary

(1) Nihayat al-Muhtaj 5/359 and Mughni al-Muhtaj 2/377

(2) Al-Zarqani's explanation of Mukhtasar Khalil, 140-7

(3) Ibn Abidin 3360

rejects the endowment, then it is for someone else, and it was said that it should be returned as property⁽¹⁾. That is, the endowment is valid and fulfills the pillars and conditions for its validity and execution, even if the specific beneficiary does not accept it. However, the endowment's yield, in this case, goes to the poor, and the project adopted the previous opinion.

The establishment or validity of a waqf does not require the transfer of the endowed property from the hands of the waqif. This is the view of the Hanbalis, who do not consider it necessary for the waqf to take effect that the property be removed from the waqif's possession; for example, the waqf of 'Umar remained in his hands until his death. Since a waqf is a form of charitable donation, it becomes binding upon mere declaration, similar to the manumission of a slave⁽²⁾. The law has adopted this view for ease of implementation and has not followed the Maliki opinion, which holds that lack of possession invalidates the waqf.⁽³⁾

If the waqf is duly established, fulfilling its pillars and conditions of validity, the inclusion of an invalid condition does not affect its validity. The waqf remains valid, and the defective condition is void, since a waqf is a form of charitable donation that is not nullified by invalid conditions. This view is followed by the Hanafis and Malikis and is supported by some Hanbali jurists.

Al-Kamal bin Hammam (a Hanafi jurist) stated that "the endowment is not nullified by invalid conditions⁽⁴⁾". The Maliki jurist Al-Dardir stressed the necessity of following "the condition of the endower if it is permissible according to Islamic law. If it is not permissible, then it is not followed." If he stipulates not to start emending the endowment, then his condition is not followed because it leads to invalidating the endowment in its entirety. Rather, emendation of endowment should be a priority so that it remains intact⁽⁵⁾".

(1) At-Tawdih by Sheikh Khalil, 281-7

(2) Kashshaf al-Qinaa' 4/2, 4, Sharh Muntaha al-Iradāt 2/497, and al-Insaaf 7/36

(3) Al-Sharh al-Ṣaghīr, 2/300; Al-Dusuqī, 4/81; and Al-Ḥaṭṭāb, 6/25-26.

(4) Fath al-Qadeer 5/60

(5) Al-Dasouki 4/88, 99

Chapter Three

The Conditions of Endowment

This chapter includes a definition of the rules and provisions for what is stipulated by the endower by stating the requirements for the validity of these conditions and the rules for understanding, interpreting, and implementing them, in accordance with the following:

Article (9)

Article (9) permits the endower to bind his endowment to the conditions he deems appropriate. These conditions must be interpreted, and their meanings explained under the rules and provisions related to the understanding and significance of Sharia texts, out of respect for the will of the endower, and to reassure the endowers that their willpower will prevail in understanding and implementing their conditions, whether they are alive or dead.

The aforementioned article requires, in addition to the above, that the phrase “endower” be interpreted according to the meaning that the endower intended at the time of his endowment, by referring to the prevailing custom in the place and time of the endowment even if this interpretation differs from the linguistic implications. The reference in interpreting the words of the endower is the prevailing meaning at the time of the endowment, and this rule is applied by the Malikis, as the endower’s words are based on custom, and it is acted upon as stated by Al-Ajhourī, one of the Maliki jurists⁽¹⁾.

Article (10)

Article (10) of the law (regulation) includes some rules related to the conditions of the endower, which are stated as follows:

First: It is necessary to adhere to the condition of the valid endower, but if the condition is unfitting, then the condition is void but the endowment remains valid, because it is a form of donation, and donations are not invalidated by void conditions.

The valid condition is what is permissible according to Islamic law and is considered valid in the eyes of the legislator. An invalid condition is not permissible according to Islamic law or does not follow the requirements of the endowment, and it has no precedence, nor is followed by custom.

The law (regulation) considers what the Hanbalis decided; that is, every condition that is not prohibited is a valid condition that must be respected, and every condition that stipulates prohibition is forbidden, and anything

(1) Hashiyat al-Dusuqī ‘alā al-Sharḥ al-Kabīr, 4/87.

that is not so is permissible. In the application of the previous legal rule, the condition for the endower to add a percentage of the endowment profits to the endowed funds, and then endow it is a valid condition since it is one of the permissible conditions.

Second: As an exception to the previous rule, the law permits non-compliance with the endowment's condition in specific cases mentioned exclusively. These are cases in which the implementation of the condition harms the interest of the endowment, the endower, or the beneficiaries. This is the doctrine of the Hanafis and others.

Third: If there is a conflict in some conditions, then they must be integrated whenever possible, as reconciling the conditions is an application of the fundamental rules derived from Sharia and language. If it is not possible to reconcile the conditions, the later condition cancels the earlier condition and is the one to be implemented whether the delay is in the location of the condition in the endowment deed, or the delay in time is due to one of the two conditions being later than the date of the condition that conflicts with it.

Fourth: The endower or the person for whom the endower has stipulated the endowment may add new conditions to his endowment, amend the conditions, or delete them for the considerations he deems appropriate while adhering to the previous provisions. Hence, no one other than the endower or anyone who stipulated for the endowment has the right to make a change in the conditions of the endowment, by adding, amending, or deleting. Endowment is the endower's voluntary act, and it is not permissible for anyone else to modify its conditions, or replace the endower's will, except in the previous case.

Article (11)

The lawful rules stipulate that if the endowment is accompanied by a condition that violates these lawful rules, the condition is nullified, and the endowment is valid. Article (11) added violation of Sharia provisions and rules as a reason for invalidating the condition because it violates the law (regulation) or public order and public morals.

Article (12)

This article sets forth the provisions for the timing and perpetuation of endowments in accordance with the following rules:

First: The family endowment is only temporary for a maximum period stipulated in the executive regulations.

Second: The endower is uninhibited to choose whether his endowment is temporary or permanent if the endowment is charitable and concerns the charitable share in the joint endowment.

Third: In case the endower does not specify, in the deed of charitable endowments or the charitable share in the joint endowment, whether his endowment is temporary or permanent, then the endowment is considered lifelong following the detailed rules contained in the executive regulations.

Article (13)

Article 13 of the law specifies types of endowments and considers them all to be permanent endowments, even if this violates the condition of the endower. These endowments are as follows:

1. Endowment of the mosque.
2. Endowment of the cemetery.
3. The endowment of a person who dies without revoking his endowment if the endowed property is of indefinite duration.
4. Endowment that a judge decides to perpetuate.

In the previous cases, the suspension is considered a permanent suspension.

Article (14)

This article confirms the need for endowment, given that this rule is the basis of Islamic Sharia. At the same time, this article allows the endower to do the following:

1. Reconsidering his endowment.
2. Modifying and changing the conditions of his endowment and deleting any such conditions.

Exceptions to the above are cases in which this law restricts the endower's freedom in the previous matters.

Article (15)

Article (15) is excluded from the provisions of this law, which allow the endower to revoke the waqf or modify its conditions, cases where the endower has received financial compensation for the waqf. In such cases, the waqf loses its charitable nature, in addition to the necessity of preserving the rights of those who have paid financial compensation in exchange for the beneficiaries receiving a share of the waqf.

In addition, the second paragraph of the same article requires taking the measures mentioned in the executive regulations for the revocation of the endowment or modification of its conditions to be taken into account.

Chapter Four

Procedures for Establishing and Proving an Endowment

This chapter contains the rules that regulate the procedures for establishing and proving an endowment.

Article (16)

Article (16) mandates that the endowment deed, the amendments made to it, and the revocation thereof be written and documented to preserve the endowment from loss and protect it from denial. In this regard, the law has sided with the legal trend of some contemporary legislation that requires notarizing the endowment argument. The law, in the aforementioned article, did not limit itself to requiring the writing and notarization of the endowment's deed but rather obligated the documentation authority to deliver a copy of the evidence of every endowment that is documented after the implementation of this law to the authorities specified in the executive regulations. This is so that each of these parties can carry out the role assigned to it and perform the tasks assigned to it regarding this endowment.

Article (17)

Given that the establishment of an endowment results in the creation of a legal person who deals independently and has an independent financial liability, the endowment may also affect the rights of persons who were not a party to the endowment deed, and the law does not require them to receive a copy of it, or notified of it, and it may establish rights for persons who must be notified of it, in addition to many other considerations, the project requires, in Article (17) thereof, that the administrative authority responsible for endowment affairs must take measures to inform everyone of every new effective endowment that arises after the implementation of this law, and also to inform about its reversal and any amendments that occur to it. The law referred to the executive regulations to state the conditions and procedures for this notification, in addition to including in the regulations a model of an endowment argument to guide those who wish to establish a new endowment.

Article (18)

Article (18) of the law grants any interested party the right to file a grievance with the administrative authority responsible for waqf affairs regarding any new waqf established after the enactment of this law. This also applies to grievances concerning the revocation of a waqf, any modifications made to

it, its annulment, or cancellation. Such grievances must be submitted within a period not exceeding sixty days from the date of notification of the waqf, in accordance with the provisions outlined in Article (17) of this law.

The grievance request shall be for one or more of the following reasons:

- First:** The absence of one or more essential elements required for the establishment of the waqf, its revocation, modification, or cancellation.
- Second:** The absence of one or more of the conditions for the validity of the endowment.
- Third:** The absence of one or more of the conditions for enforcing the endowment.
- Fourth:** Failure to adhere to the procedures for establishing the endowment contained in the law or the executive regulations.

Article (19)

In cases where it becomes clear to the administrative authority responsible for endowment affairs that there are defects that affect the integrity of the establishment or implementation of the endowment, whether that is based on a grievance from the concerned parties or as a result of an examination by the administrative authority, Article (19) of the law (regulation) requires the administrative authority to take the following measures:

- First:** If the error that occurred following the establishment or enforcement of the endowment was in formal matters that do not require the endower's intervention, the administrative authority has the right to rectify the formal error.
- Second:** If the error involves formal matters that require the endower's intervention, the administrative authority must notify the endower to rectify the error. If the endower does not take the corrective measures or cannot do so. In that case, the competent administrative authority shall refer the matter to the judiciary to give the order to take what is appropriate and the administrative authority implements what the judiciary orders.

Third: If the endowment does not meet one or more of the objective conditions for its establishment, validity, or enforcement, the competent administrative authority shall refer the matter to the judiciary to rule as it deems appropriate in accordance with the rules and provisions of Sharia.

Article (20)

The decisions taken by the administrative authority responsible for endowment affairs related to new endowments in the cases mentioned in Article (18) of the law, whether based on a grievance from the concerned parties or on the initiative of the authority itself, are not immune, but are subject to judicial oversight. Those concerned who are harmed by the decisions of the administrative authority or see them as harmful to the affairs of the endowment, or in conflict with the provisions of the law and its executive regulations, have the right to resort to the judiciary to challenge the aforementioned decisions and request their cancellation provided that recourse is made to the judiciary within a period not exceeding sixty days from the date the administrative authority is notified of the results of examining the grievance, or from the date of ascertainment in cases in which the concerned parties do not file a grievance with the administrative authority.

Article (21)

Article (21) differentiates between waqfs established before the enactment of this law and those created afterward regarding proof of establishment. For waqfs established before the law came into effect, it refers to the legal rules in force at the time of their creation. If no specific legal provisions or rules regarding proof exist, the principles of Islamic law shall apply. However, waqfs established after the enactment of this law shall only be recognized through a written and notarized endowment deed.

Chapter Five

Effects of Endowment

This chapter contains the rules that determine the credenced criterion to define the beginning of the order of the effects of the endowment, along with a description of the effects that result from the emergence of the endowment.

Article (22)

The effects of endowment do not take effect by writing its deed, documenting it, and sending copies of it to the parties specified in the executive regulations. Rather, the effects of endowment are arranged from the date of informing everyone of it following the procedures specified in the executive regulations.

Article (23)

Article (23) specifies the effects that result from the endowment, after completing the procedures for defining it, and these effects are as follows:

First: By law, the endowment acquires an independent legal character.

Second: Ownership of the funds being endowed is transferred to this new legal person in a permanent or temporary format.

Third: Endowed funds will have a legal system that differs from the legal system for public funds and is also distinct from privately owned funds.

Fourth: Possession of the endowed funds is transferred to the new legal person, and the transfer of possession may be actual or decreed, permanent or temporary.

Fifth: Begin implementing the conditions and willpowers of the endowers and adhere to them.

Chapter Six

Managing Endowed Funds

This chapter includes the rules and provisions for endowment management, at the level of each individual endowment through its administrators, and management at the level of all endowments in one country through a civil (family endowment) and governmental organization.

Article (24)

The first clause of Article (24) of the law requires that every endowment have an administrator who will take care of its affairs.

In principle, the administrator of the endowment should be someone appointed by the endower, whether he appoints himself as administrator of the endowment or chooses someone else, in compliance with the condition of the endower. If the endower does not appoint an administrator, or he appoints an administrator who happens to die, lose one of the conditions for administration, or his circumstances prevent him from carrying out its duties, the competent court shall appoint an administrator for the endowment under what is stated in the second clause of the aforementioned article.

The third clause allows more than one natural or legal person, or both, to oversee the endowment.

In recognition of the law's importance of collective management of large endowments in which the value of the endowed funds exceeds the amount specified by the executive regulations, this law requires, in the fourth clause, that supervision of these endowments be given to a council, to prevent harm that may befall these endowments from individual management and to achieve further rationalization in their work, and to eliminate the causes of previous failures of individual administrators of large endowments, which required good management, distancing them from individual decisions and a unilateral vision. The fourth clause also referred to the executive regulations to state the detailed rules and provisions for these councils, such as stating the number of members, the tasks and powers of the council, and its work system.

Article (25)

The ruling contained in Article (25) of the law is derived from the opinions of the jurists who considered the administrator of the endowment to be the trustee of the endowment funds under his control, and that he must preserve, maintain, and invest these funds, and to collect the proceeds of the investment and spend them in implementing the wills of the endower in accordance with

the Sharia provisions. The administrator's control over the endowment's funds, resources, and yields is a control of trust and not one of guarantee, as long as he does not transgress or fall short. This law and its executive regulations include detailed rules governing the spending of endowment revenues.

Article (26)

Article (26) obliges the endowment administrator to organize the financial and accounting affairs of the endowment and to institutionalize management away from personalization. The administrator is obligated to prepare an annual budget for the endowment to distance it from random management and record the endowment accounts in accounting records that he maintains for a period of no less than three years, to be the most important tools for monitoring the proper management of the endowment funds. The endowment administrator is also obligated to prepare an annual report on endowment affairs, based on the form prepared by the administrative authority responsible for endowment affairs. A copy of this report shall be deposited with the competent administrative authority, and a second copy shall be deposited in the Regional Union of Endowments or the General Union of Endowments if there is no regional union.

In order to tighten financial control over large endowments in which the value of the endowed funds exceeds the amount specified by the executive regulations, the last paragraph of Article (26) requires that the accounts of these endowments be subject to the review and audit of an accredited auditor. The aforementioned paragraph referred to the executive regulations a statement of the tasks and responsibilities of the auditor and a statement of the entity that selects him.

Article (27)

The first clause of Article (27) allows the endower to dismiss the administrator whom he appointed, and this is considered an amendment to one of the conditions of the endowment. Amending the conditions of the endowment is a right granted to the endower under the provisions of this law. In this case, the endower may appoint a replacement administrator and if he does not do so, the competent court shall appoint him.

Whether the administrator was appointed by the endower or by a ruling from the competent court, the court may remove him and appoint a replacement administrator in the cases mentioned in the executive regulations.

To preserve the endowed funds, and for fear of tampering with them by the administrator, the last paragraph of Article (27) allows the court to suspend the administrator if his dismissal or impeachment is held before it until the court decides on the matter of dismissal or imposes another disciplinary penalty as stipulated in the executive regulations. The court then appoints a temporary administrator until it decides with a final ruling on the suitability of the administrator to continue his work or to remove him.

Article (28)

Article (28) stipulates a general rule according to which the administrator of the endowment is entitled to a wage in exchange for carrying out the affairs of the endowment, and this is based on what the Companions, may God be pleased with them, adopted in determining the principle of remuneration for the administrator of the endowment, including the endowment of Omar bin Al-Khattab, may God be pleased with him, who stated in his endowment that “The guardian of this charity may eat from it.”

If the endower specifies a wage of a known amount or sets a standard based on which the wage of the administrator is determined, then what the endower has specified shall be adhered to at no less than the ideal wage. Anything exceeding the ideal wage shall be considered an entitlement to the endowment, and the wage for anything less than the ideal wage shall be increased by the amount of the difference between them.

The previous rulings, related to the equivalent wage, are derived from Hanafi and Maliki jurisprudence, in which it is stated that “the judge may assign to the person in charge a wage commensurate with the benefit or according to his diligence, which is the equivalent wage and what people have agreed upon as a reward for this kind of business.”

In order to encourage and motivate the administrator to properly manage and invest the endowment funds properly, the law allows the competent authority to determine an incentive reward for him in the event that the net endowment proceeds increase by no less than 15% of the previous year’s proceeds.

Article (29)

The law tended to control administrative expenses to preserve the rights of the beneficiaries, and to rationalize administrative spending from the proceeds of the endowment. To achieve this, Article (29) required the administrator of the endowment to commit to the administrative work expenses, including the wages of the administrator and the salaries of employees, not exceeding a percentage of the total proceeds of the endowment determined by the executive regulations. An exception to the previous rule is in cases of necessity that are estimated according to their value, after the approval of the administrative authority responsible for endowment affairs, based on the justifications provided by the endowment administrator. It is permissible to increase the percentage of administrative expenses on the condition that the percentage of this increase does not exceed twice the prescribed percentage, and that this increase is for a period of time determined by the competent administrative authority.

Articles (30) and (31)

If the law was concerned with documenting the relationship between the various endowments within one state, and for this purpose created an organization of a civil nature to codify these relationships in a way that leads to their strengthening and development, then the existence of an official organization of a governmental nature that works in the field of activating the endowment, rationalizing its progress, and addressing the defects or shortcomings that may befall some of its units, is the matter that guides the endowment's progress. It began with a good year from the judge of Egypt, who established an office to provide services to the endowment and address its shortcomings, and this good year continued the endowment's journey until the present era. The ruler, and whoever represents him, has the right to supervise all endowments that are handled by someone else.

The law confirmed the previous approach and assigned, under Article (30), a governmental body to supervise the endowments, provide them with assistance, and help in overcoming the problems they face. The aforementioned article assigns to the competent governmental body the tasks of providing various aspects of support to the endowments. As for Article (31), it specifies the supervisory function of the competent government authority, which is to take verification and accountability measures in the event of violations.

Articles from (32) to (39)

For many centuries, Islamic endowments remained isolated from each other without codified relationships that bring them together, link their activities and investments, and coordinate their projects and aspects of their spending, lacking communication channels through which experiences can be exchanged among them. Perhaps the most prominent disadvantages of the lack of this connection between the different endowments are either the deviation of the administrators, their monopoly over and tampering with the endowments, failure to accomplish their mission and perform their social and developmental role, or the control of governments over endowments, surrounding them with governmental formalities that eliminate their effectiveness and encourage greed for their funds.

Therefore, the law tended to link the various endowments, in one state, through a civil organization, which is the General Union of Endowments. Article (32) required the establishment of this union which has an independent legal personality, and Article (33) specified the goals of the union, which is to expand and develop the endowment practice. Article (34) stated the detailed functions of the union, and the law allocated Article (35) to clarify its internal administration, represented by both a general assembly and a board of directors.

Article (36) specified the legal representative of the union, who is the chairman of its board of directors, while Article (37) stated its financial resources. Article (38) permitted the union to establish in each region or governorate a regional union that would exercise the role of the union with respect to the endowments located in the region or governorate taking into account the circumstances of each country, its geographical area, and the needs of endowment development therein. Article 39 obligated the union to establish a social solidarity fund to contribute to addressing the phenomenon of poverty and providing social care to those in need.

Chapter Seven

Investing Endowed Funds

Endowment, according to the definition in Article One, is the endowment of money and the granting of its benefit. That is, spending in the ways specified by the endower is dependent on the proceeds or returns of investing the endowed funds and on the proper investment of these funds. The amount of revenue depends on the level of the endowment's performance of its tasks, especially in achieving its objectives. For this reason, the law concerned itself, in Chapter Seven, with clarifying the rules and provisions for investing endowed funds.

Articles (40) and (41)

Article (40) requires the entity in charge of the endowment's affairs to invest the endowed funds, and therefore it is considered gross negligence on the part of the administrator of the endowment's affairs to merely retain and preserve the endowed funds without investing them, because that would preclude the endowment from achieving its goals. Rather, the duties of the person in charge of endowment affairs go beyond that and extend to investing the endowed funds in legitimate and safe aspects that yield an appropriate revenue, while giving priority to investment aspects that achieve, in addition to the appropriate revenue, a social benefit. The aforementioned article was referred to the executive regulations to state the terms and controls of this investment.

Direct investment (according to the text of Article 40) is not the only way to invest endowed funds. Article 41 of the law permits the administrator of the endowment to invest all or some of the endowed funds in entities specialized in investment affairs under the conditions, controls, and investment formulas specified by the executive regulations.

Article (42)

Article (42) permits the replacement and substitution of endowed assets if specific conditions are met in the executive regulations, and after following the procedures contained in the aforementioned regulations.

Substitution means exchanging an endowed asset for another, and replacement means selling an endowed asset and purchasing another asset or assets that will be a substitute endowment for the asset that has been sold.

Article (43)

The administrator is considered a guardian of the endowment's property and an agent on behalf of the beneficiaries. He is responsible for any negligence regarding the endowment's assets and investments. Article 43 requires the administrator to manage the endowment's funds in a manner consistent with the standards of an agent for compensation. The administrator is held accountable for the outcomes of his negligence in all areas of his duties. The mentioned article sets a legal standard for what is considered negligence on the part of the administrator in investment matters, which is if the average return or income from the investment falls below the average return of an endowment invested in similar investment fields for two consecutive years.

In cases where it is proven that the average returns on investing in an endowment in two consecutive years are less than the returns on investing in a similar endowment, the matter is referred to the competent court to take what it deems appropriate vis-à-vis the administrator of the endowment.

Article (44)

Article (44) of the law requires whoever is in charge of endowment affairs to withhold allocations from its proceeds to replace the endowment funds in cases of loss, damage and obsolescence, in accordance with the rules applicable to contemporary projects. This article also obligates the person in charge of endowment affairs to maintain the endowment assets and carry out appropriate repairs and maintenance to ensure their continued benefit.

Chapter Eight

Eligibility for the Endowment

This chapter includes the rules and provisions for entitlement to the endowment, and the distribution of the endowment proceeds among the beneficiaries identified by the endower in the endowment deed. These rules and provisions are based on and adhere to two main principles:

First: The endowment funds remain and the right of those entitled to their proceeds is attached. This rule confirmed Omar ibn al-Khattab's endowment deed, in which the words of the Prophet (Peace Be Upon Him) were mentioned: "An endowment asset shall not be sold, given away, or inherited."

Second: Commitment to spending from the proceeds of the endowment funds according to the valid conditions of the endowment.

Article (45)

Article (45) confirms the second principle referred to earlier, which is the obligation to spend the proceeds of the endowment according to the valid conditions stipulated by the endower, taking into account the exceptions mentioned in the law or the executive regulations.

Article (46)

Article (46) confirms the first principle and stipulates it explicitly. The rights of the beneficiaries are related to the endowment's yield, benefits, investment returns, or proceeds from these funds, and are not related to the endowment itself.

The previous article permitted beneficiaries to use endowment assets, for housing if the endowment is real estate, for example, according to their shares in the endowment as determined by the endower. The text was referred to the executive regulations to explain the detailed rules and partial provisions that regulate the use of endowment assets by those endowed upon.

Article (47)

The first paragraph of Article (47) entitlement to the endowment requires acceptance in only two cases:

First: If there is an entity that has a legal representative.

Second: In the event the endowed upon is a specific natural person; if he is incapable or lacks capacity, the consent of the person in charge of his affairs shall be invoked.

The source of the previous rule is the doctrine of the Hanafi, Maliki, and most Hanbalis. The Hanafi doctrine stipulates that explicit acceptance is not a

condition for entitlement, regardless of whether the recipient is specified or not.

The Malikis hold that acceptance is not a condition for entitlement to the endowment if the recipient is not a specific human being. If he is a specific human being, then acceptance is a condition for entitlement. If the endowed upon is eligible for acceptance, he will accept it himself, otherwise, his guardian will accept it on his behalf, and if the endowed upon is someone not specified, then acceptance is not a condition according to the majority of jurists.

The requirement of acceptance from the party that has a legal representative comes from an account in the Hanbali doctrine. It was considered admissible because some of the endowers may have hidden purposes behind their endowments. In this case, the entity has the right of decline, to ward off these purposes, and protect the entities on which the endowment is intended from the tampering of malicious parties.

Article (48)

The article (48) defines two cases in which the right to the endowment is forfeited for the designated beneficiary, which are:

First: If the endowment is for a specific person and this person refuses to entitle it because it is not permissible to enter money or a benefit into property, then it is rejected without his consent, except in cases of inheritance due to a definite stipulation.

Second: If the person entitled to endowment kills the endower, one of the endower's ascendants or descendants, or one of the endower's relatives up to the fourth degree. Or he kills the person for whom the condition was stipulated, from whom he receives the entitlement, regardless of whether the one for whom the entitlement was stipulated was an original perpetrator, an accomplice, or a false witness whose testimony led to a death sentence for any of the previous categories, and the sentence was executed.

It is stipulated here that the killing be unlawful, and that the killer be eligible for criminal responsibility. It is also specified that the killing should not be in a case of legitimate defense of oneself, one's family, one's honor, or one's property.

Depriving the murderer according to what was mentioned above does not result in depriving his offspring. Rather, they will take their share if they deserve it.

Article (49)

The fundamental rule in the field of spending the proceeds of the endowment is to adhere to the conditions stated in the endowment deed. Spending from the endowment proceeds is in the ways specified by the endower. However, as an exception to the previous rule, Article (49) permits the use of endowment assets or the spending of their proceeds on additional expenditures not mentioned in the endowment deed. That is, in expenses and expenditures that are added to the expenses and expenditures specified by the endower, on the condition of the endower's approval if he is alive or obtaining permission from the court in the event of the endower's death.

The reason for this is that life's events and changes may create temporary or permanent situations that require care and fall within the general frameworks for the purposes of the endowment specified by the endower. It is believed that if the endower were alive, he would add these aspects of spending to the conditions of his endowment. In addition, this would give the endowment flexibility to keep pace with society's conditions and requirements and meet the needs of every stage of its life.

Article (50)

As an exception to the rule of obligation to spend the proceeds of the endowment in the means of expenditure determined by the endower, Article (50) permits disbursement to the needy from the endower's assets, descendants, spouses, or relatives up to the fourth degree. This is to meet their basic needs and, in the cases, specified by the executive regulations for which a judicial ruling is issued and not to exceed a certain percentage of the endowment proceeds determined by the executive regulations.

The previous rule is based on the principle of honoring relatives, which the Prophet (Peace Be Upon Him) recommended.

Article (51)

Article (51) stipulates a rule extracted from the principles of Sharia, and it is considered a branch of the fundamental rule that preventing harm takes precedence over bringing about interests. If there is a general calamity in the country, such as a foreign invasion, a general epidemic, etc., or a disaster in the locality of the endowment, i.e., in its homeland, country, or population area, it is permissible for the administrator of the charitable endowment or

the charitable share of the joint endowment to spend from its proceeds. The administrator can also use the endowed assets to mitigate the humanitarian and social effects of these disasters and prevent harm to the population, taking into account the rules and procedures contained in the executive regulations.

The previous text was based on the analogy of the behavior of the second Caliph 'Umar bin Al-Khattab (RA) who used funds from the public treasury to feed the people during the year of famine and was supervising their feeding himself.

Article (52)

Article (39) of this law requires the General Union for Endowments to establish a social solidarity fund to contribute to addressing the phenomenon of poverty that most Islamic countries are facing. Article (52) obligates each endowment with an annual income that reaches the amount determined by the executive regulations to allocate a percentage of its income, which is set annually by the General Union for Endowments, provided that this percentage does not exceed 10% of the net income of the endowment.

It is unreasonable for foreign countries to extend their assistance to address poverty in our country, and for us to not have initiatives in this field, especially within the framework of the Islamic endowment, which Islamic history attests to playing pioneering and important roles in this field.

Article (53)

The first paragraph of Article (53) specifies the income of endowments allocated for general charitable purposes. These cases share a common feature: the absence of a designated beneficiary for the endowment as specified by the endower or the existence of a financial surplus in the endowment from other financial sources.

The second paragraph of the mentioned article guarantees a percentage of the income from general charitable endowments to the social solidarity fund, as determined by the executive regulations. This means reserving a share of the income from general charitable endowments to contribute to addressing the phenomenon of poverty, in line with the principle of social solidarity in Islam, through the social solidarity fund.

Article (54)

If the endowment is joint, and the endower does not specify the share of the

charity or the share of the offspring or the beneficiaries (family or offspring endowment), the proceeds of the endowment are divided equally between them based on what is stated in the Hanbali doctrine. If the endower said: I endow the house to my children and to the poor, then the endowed assets are divided between the two, one half is given to his children and half to the poor (Kashshaf Al-Qinaa') 4/358. Accordingly, the text of the first paragraph of Article (54) was stated. As for the second paragraph of the aforementioned article, it is referred to the judiciary to estimate the values if the endowment includes unestimated layers.

Article (55)

Article (55) includes the rules of entitlement to the family endowment as follows:

If the endowment is stratified and one of the beneficiaries dies or is deprived of the endowment, the beneficiary is determined for the share of the deceased or the deprived under the following rules:

First: If the endower stipulated a condition, the next beneficiary is determined to fulfill the condition.

Second: In this case where the endower does not stipulate any condition, the share of the person who died or was deprived of the endowment goes to his descendant.

Third: If the beneficiary who died or was deprived of the entitlement does not have a descendant, his share shall be for whoever is in his class among those entitled to the share to which he was entitled.

Fourth: If there is no one in his class, the entitlement passes to the next class.

Fifth: If a newborn is added to the class of the eligible person who dies or is deprived of the entitlement, the entitlement returns to the class as of the date of his birth.

Article (56)

In order to stabilize the legal status of endowments, especially in the areas of entitlement to revenues, Article 56 stipulates that a claim for entitlement to an endowment shall not be heard if it is denied. If the concerned party does not take the initiative to show his seriousness in demanding it and prove his entitlement to it, he shall file a lawsuit to extract his right to it before two years have passed from the time he became aware of the entitlement.

Chapter Nine

The Legal System for Endowed Funds

Endowed funds have their own legal system that is unique from privately owned funds, and this nature is not completely identical to the legal nature of public funds. Chapter Nine contains the rules and provisions that constitute the special legal system for endowed funds.

Contemporary laws agree on the right of the owner of the property to dispose of it, whether by himself or through an agent or legal representative, in contrast to endowed funds for which Article 57 stipulates the general rule, which is that it is not permissible to dispose of them. Endowing the asset of the money is the essence of the endowment, its veracity, and the criterion for distinguishing it from other legal systems.

Based on that, the jurists agreed, understanding from among themselves and in implementation of what the Prophet (Peace Be Upon Him) said to Omar ibn al-Khattab (RA): “If you wish you may make the property an endowment and give its produce as Sadaqah.” And what was narrated by Ibn Omar that Omar gave it as charity: “Its assets cannot be sold, bought, inherited, or given away.” The impermissibility of transferring ownership of the endowed assets and properties entails that it is not admissible to mortgage them, because this may lead to the disposal of the mortgaged property.

The exception to the rule of not disposing of endowed funds is the cases mentioned exclusively in the law and its executive regulations and after the conditions stipulated are met.

As a result of the previous rule, which does not permit endowed funds to be the subject of legal dispositions except in exceptional cases, Article (58) stipulates that everything that could lead to the disposition of endowed funds, such as seizure, prescription or by acquiring rights in rem through prescription, is invalid. The previous ruling is consistent with the conclusions of the jurists who excluded suspension lawsuits from the defense that the lawsuit should not be heard if its conditions are met. They stipulated that in the case of the defense that the case should not be heard due to the passage of time, the seized property should not be an endowment. If it is an endowment, the lawsuit will be heard even if the statute of limitations has passed. Therefore, possession of the endowment is not considered evidence of ownership, no matter how long the period of possession.

Emphasizing the special nature of the endowment, the aforementioned article required that the endowment funds be treated as public funds to prevent any infringement on them through the administrative process.

Endowed funds are considered owned by the endowment, but their yield or proceeds are allocated to the joint beneficiaries in proportion to the share of each of them if they are specified by name. Article 59 allows each person entitled to the endowment, and the administrator of the charitable share may request the judiciary to end the state of condominium and allocate a share to each person entitled to the endowment, under two conditions: the ability of the endowment funds to be divided, and that no harm will occur from the division to the endowment or the beneficiaries.

In most countries of the world, statutory laws stipulate distinct care for public funds, including the privileged right, which entails the recovery of rights to public funds from the price of the funds related to this privilege in whatever hand it is in, before any other right, even if this right is privileged or secured by a mortgage. Public funds are collected through administrative methods that are simpler, easier, and less costly and time-consuming than the procedures for collecting private funds. Article 60 stipulates that these benefits are granted to endowment funds, as they have the privileged right granted to government debts, and they are collected through the methods prescribed for collecting public funds.

The important characteristic of endowment funds mentioned in Article (61) is that it is not permissible to invest or contribute to any projects or businesses that do not comply with Sharia provisions. The previous rule is an effect of the nature of the endowment, as it is an Islamic system whose provisions and treatment are shaded by the Sharia rulings.

Under Article 62, charitable endowment funds and the charitable share in joint endowments enjoy the same tax exemptions enjoyed by public funds as well as any fees imposed by laws or regulations, as well as exemption from judicial fees. Article 63 added penal protection to endowments by stipulating the extension of the penal laws and provisions for the protection of public funds and their application to charitable endowment funds and the charitable share in joint endowments.

As stated in the previous text, in penal protection, among papers, records, books, documents, and electronic receptacles for information related to the endowment, and among official papers. This is because, in the field of penal protection, these documents are considered official documents, just as the administrator of the endowment and its employees are considered public employees in the field of penal accountability.

Chapter Ten

Terminating the Endowment

This chapter includes the rules and provisions for the termination of the endowment by specifying the reasons for the termination and the effects that result from it.

Article (64)

In principle the endowment is perpetual, and as an exception to this general rule, the endowment is terminated for the reasons mentioned exclusively in Article (64), which are as follows:

First: The expiration of the period specified by the endower for the endowment, in accordance with their will, and in respect and adherence to their condition, while taking into account the cases of endowments supported by legal rulings as per the provisions of Article (13), along with other cases explicitly stated in the law and regulations.

Secondly: If the endower specified a particular purpose for their endowment, such as educating their child or curing a patient, and the intended purpose is fulfilled, the endowment ends, except in the cases mentioned in this law. The endowment concludes once the purpose is exhausted.

Thirdly: The private endowment (family or descendible endowment) ends upon the extinction of the beneficiaries if the endowment is designated for specific individuals by name or by their characteristics. The endowment in each share ends when its designated beneficiaries cease to exist.

Fourth: If the endower reserves for himself, in the endowment deed, the right of revocation, and also in the cases mentioned in this law that permit revocation of the endowment, the endower has the right to revoke thus terminating the endowment.

Fifth: If the number of beneficiaries is large, leading to a decrease in their entitlements according to the prevailing customs and the economic level of the endowment area, and those in charge of endowment affairs are unable to replace or replace the endowment funds with other funds that generate a greater return that raises the level of what the beneficiaries receive. If the revenue for one beneficiary is small and has no value, but for another beneficiary it is significant and has a large financial value, then the endowment ends partially.

Sixth: If it is proven that the endower intended his endowment only to dispose of part of his estate, or all of his estate, through the endowment, in order to spite his heirs by depriving them of their inheritance or a large portion of it. Indeed, endowment is an offering to Allah the Almighty, and there is no

offering through sin by depriving the heirs and disrupting the legal rulings of inheritance.

Seventh: If the endowed assets or properties are damaged or ruined.

Article (65)

The reasons for the termination of the endowment are attached to the provision contained in Article (65), which stipulates that an endowment that violates the provisions of the law is invalid and does not result in any legal effect.

Article (66)

The endowment shall be terminated by a judicial ruling in the cases mentioned in Article (64), and it shall be invalidated under what is stated in Article (65) by a judicial ruling. There is no termination or invalidation of the endowment except by virtue of a judicial ruling of which everyone will be notified of its dates and procedures mentioned in the executive regulations. The second paragraph of the aforementioned article required the competent court to involve in the endowment termination or invalidation lawsuit the administrator of the endowment, the competent administrative authority, the General Union of Endowments, the regional union, the endower if he is alive, or one of his heirs in the event of his death.

Article (67)

If the endowment is terminated or invalidated by a judicial ruling, the effect of this termination or invalidation begins from the date of notification of the ruling. As for the actions, arrangements, procedures, and engagements that took place, in good faith, in the period preceding the announcement of the termination or invalidation of the endowment, and resulted in rights for third parties, Article (67) has protected them and reserved these rights for their owners, so the termination or invalidation does not affect the rights and obligations resulting from them.

Article (68)

Article (68) determines the fate of the endowed funds after the termination of the endowment for any reason. The ownership of the funds endowed under the previous text passes to the endower if he is alive, or to his heirs if he is deceased because the endowed funds in the event of termination of the endowment return to their original owner.

This article agrees with what the Malikis believed, and this law considered the permissibility of determining the duration or purpose of the endowment. It is also well-known among Malikis that ownership of the ownership of the endowment funds belongs to the endower at the time of endowment, but it is an incomplete ownership that prevents sale, mortgage, and inheritance. If the endowment is terminated, the ownership returns in full to the endower. In case of the endower's death, ownership passes in full to his heirs, as there is no impediment preventing this transfer. This view is similar to what was previously stated by Hanafi Imam Abu Yusuf.

Chapter Eleven

Special Provisions for Some Types of Endowments

The need has appeared in recent times for some types of endowments that did not appear clearly and urgently in ancient times due to the special nature of the cultural development that the Islamic world is going through, the renewed needs it produces, and special cases that require new types of endowments that are compatible and harmonious with previous data. The most important thing that contemporary studies of endowment affairs have revealed is the paramount importance of endowments for charitable and public benefits, which focuses on the services provided by public facilities that are managed by government agencies or public benefit associations, as well as public services that are not provided by any of the previous bodies. The second and newer type, is the collective endowment which aims to accumulate funds and visual energies through an endowment to meet a specific need or needs, the fulfillment of which and the management of its affairs require large sums of money and the recruitment of energies of multiple talents, interests, and specializations. These two types of endowments operate within the framework of the rules and provisions regulating endowment affairs, but the special nature of each requires setting some rules specific to each type. Chapter Eleven brings together these rules and provisions.

Articles (69) and (70)

Article 69 permits endowments for charitable and public benefits carried out by government facilities or public benefit entities (civil associations) or to satisfy public needs that the endowment itself is responsible for, such as establishing schools to educate poor children or owning hospitals to treat sick poor people...etc.

Article (70) specifies the rules that are unique to these endowments as an exception to the general rules, and these rules are as follows:

First: If the public need has ended, the competent court may, in this case, authorize the transfer of the endowment proceeds to another public need.

Second: If the endowment is permanent, the endower may not revoke it except for the reasons specified by the executive regulations and assessed by the competent court. The court may decide to withdraw a portion of the endowed funds with which the endower will be able to endure the emergency without withdrawing the endowment of all the endowed funds.

Third: If the period of the endowment is limited, the endower may not revoke it before the end of the period to preserve the interests of the beneficiaries and ensure that public facilities operate regularly and steadily. If a person endows a building to use it as a school for ten years, for example, he is not permitted to revoke his endowment before the expiry of the previous period because of the serious impact that reversing the endowment will have on the future of the students studying in the building, especially since the administration was confident that the use of the building would extend for a future period. Therefore, there is a high probability that it would be unable to provide an alternative to it.

Fourth: If the endowment is temporary for a specific time, and this period ends, and the endowment continues to be used to satisfy public needs with the consent of the endower or his heirs after his death, the temporary endowment turns into a permanent one in respect of the implicit will of the endower or his heirs. If only some of the heirs agree, the endowment is considered permanent for the shares of those who agree.

Fifth: If the proceeds of the endowment are allocated to meet public needs regulated by laws and regulations, then any condition of the endower that contravenes these laws and regulations is considered an invalid and void condition, while the endowment continues. If the endowment is for the education of the children of the poor, for example, any condition for the endower that allows him or any other person to interfere in the school curricula or study system, such as stipulating not to teach a subject or subjects mentioned in the study plan, etc., would be invalid.

Sixth: If the endowment is allocated to a public facility or a public entity (a public benefit association) and the endower appoints an administrator of the endowment, the role of the administrator is limited to receiving the endowment funds, preserving them, investing them well, and delivering the proceeds to the facility or entity without interfering in the work of any of these entities.

Articles (71 to 74)

The individual endowment was the usual image in previous eras, and the participation of more than one individual in establishing one endowment was exceptional cases. This situation was proportional to the size of the projects carried out by the endowment, and the needs it meets in contrast to the requirements of contemporary life, as the development and investment

of endowment funds requires grouping them into large entities. In addition, providing services and meeting the needs of the endowment's target groups, such as health, education, etc., requires working through large entities, institutions, and facilities, to ensure efficiency, quality, and a high level of performance. This requires the provision of high-level endowment resources that are not often found in individual endowments. Therefore, the law pays attention to collective endowments, through which abundant resources can be secured from multiple contributions from many people in one endowment deed or in multiple endowment deeds with similar conditions to work in the same fields. The law allocated Articles 71 to 74 to present the rules and provisions of this collective endowment.

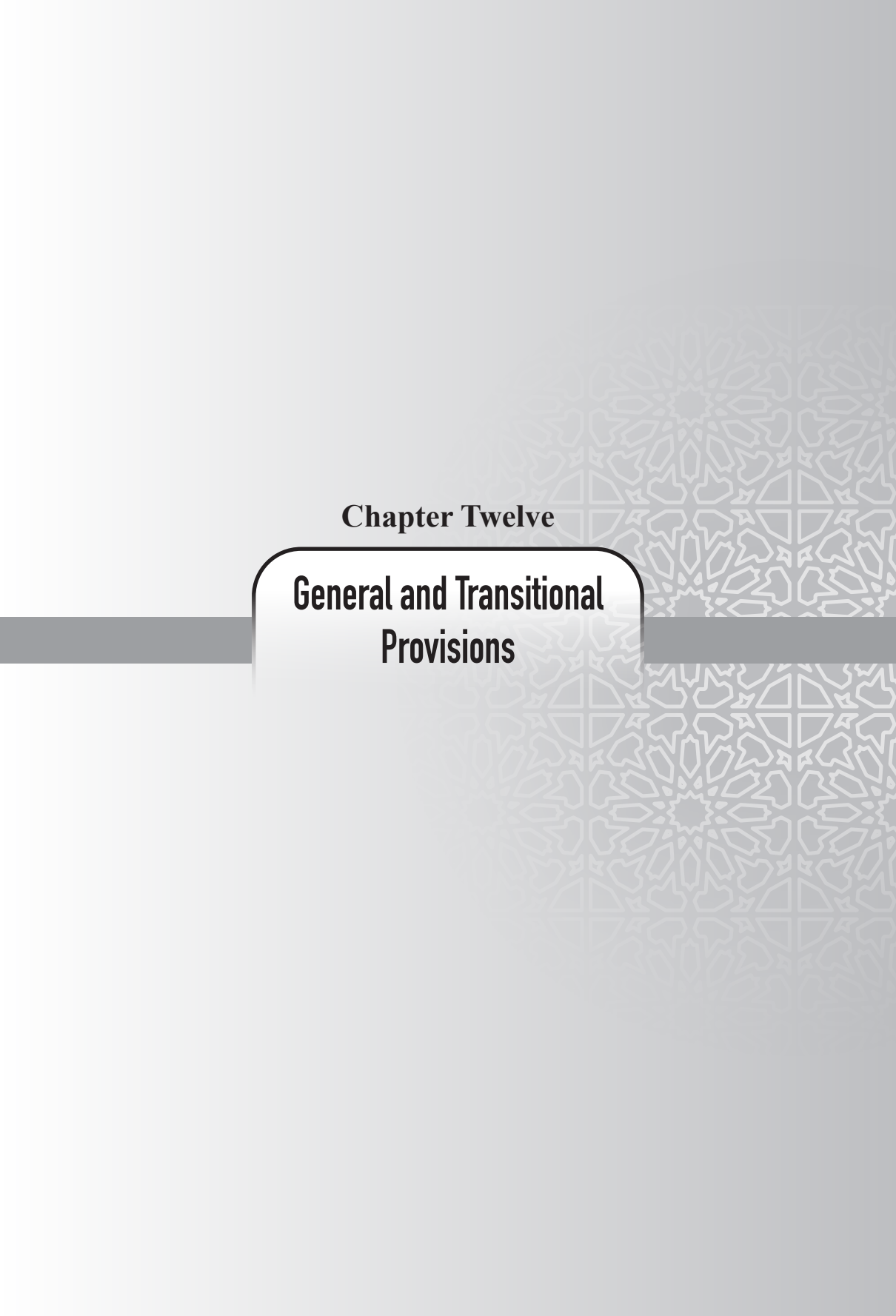
Article (71) defines the collective endowment, and Article (72) permits any individual to join the collective endowment on the condition that he adheres to its conditions, and does not impose new ones, because the conditions of the collective endowment represent what everyone who participates in it has agreed upon, whether in the establishing, or the subsequent stages. Article 73 allows changing the conditions of a collective endowment with the approval of all living endowers. If all living endowers do not agree, the conditions of the endowment remain difficult to amend or change.

Article (74) referred to the rules contained in Article (70) regarding endowments for public goods and required collective endowments.

Articles (75) and (76)

The project permitted in Article (75) the inclusion of small charitable endowments whose purposes are similar. An endowment is considered small if the value of its revenues is small and if the revenues in the last three years are less than the amount specified in the executive regulations.

In the event of annexation of more than one endowment, a new legal personality shall be created to replace the legal persons of the annexed endowments. According to Article (76), all rights and obligations of the merged endowments shall be transferred to the new legal personality.



Chapter Twelve

General and Transitional Provisions

Article (77)

It should be noted that adding the name of “waqf” or its derivatives to the name of any organization, institution, or entity, or including it in its documents, records, or promotional materials, may lead to the belief that it is a waqf institution, which could mislead others if it is not actually a waqf entity. Therefore, Article (77) prohibits any entity, in its capacity as a non-waqf institution, from including in its name or documents the word “waqf,” its derivatives, or equivalents, in accordance with the provisions of the law. Exceptions are made for waqfs established before the enactment of this law, on the grounds that their establishment complied with the procedures in force at the time the waqf was created.

Article (78)

Article (78) obligates the administrators of endowments established prior to this law to provide sufficient information to the competent administrative authority regarding the endowment they are managing. They must also provide these authorities with copies of the endowment deeds, documents, and all related materials within the deadlines specified by the executive regulations.

Article (79)

Article (79) requires the court hearing any dispute, matter, or case related to the endowment to order the inclusion of the following parties: the competent administrative authority, the regional union for endowments, the endower (if still alive), and the endowment administrator. This is to protect the endowment’s assets and interests and to present any relevant documents in their possession related to the subject of the dispute.

Article (80)

Article (80) includes two rules, the first of which is to adhere to the validity of the final rulings issued before the enactment of this law, even if they contradict its provisions. The second rule is that the public prosecution must intervene in endowment cases, considering that endowment is one of the public interests that society defends, and because endowment is linked to the application of Sharia rules and rulings.

Article (81)

To encourage those wishing to establish an endowment by alleviating their suffering in carrying out the procedures, Article (79) allows anyone who wishes to establish an endowment or join an existing one to appoint the competent administrative authority on his behalf to carry out the procedures for establishing an endowment or joining an existing one, or to make any amendment to the terms of the endowment that is permitted by law.

Article (82)

It is apparent that the articles of this law do not include all the provisions of endowment, and therefore situations may arise for which there is no ruling, in which case it is due to the prevailing jurisprudential doctrine in the state in accordance with the provision contained in Article (82) of the law.

Article (83)

Due to the nature of endowments, Article (83) mandates that judicial disputes related to endowments be assigned to specialized chambers in the competent court located within the jurisdiction where the endowment is situated. The mentioned article also assigns these chambers the responsibility of considering petitions related to the endowment.

Article (84)

Article (84) requires the authorities concerned with endowments in general, namely the competent administrative authority, the General Union of Endowments, and the administrator of each endowment, to cooperate in taking appropriate measures to ensure that the endowments recover the endowed funds that the endowment may have lost due to their seizure by others or for any other reasons. They must also take legal measures to recover documents related to endowments that may have been lost or some of their funds have disappeared, or to create new documents for them.

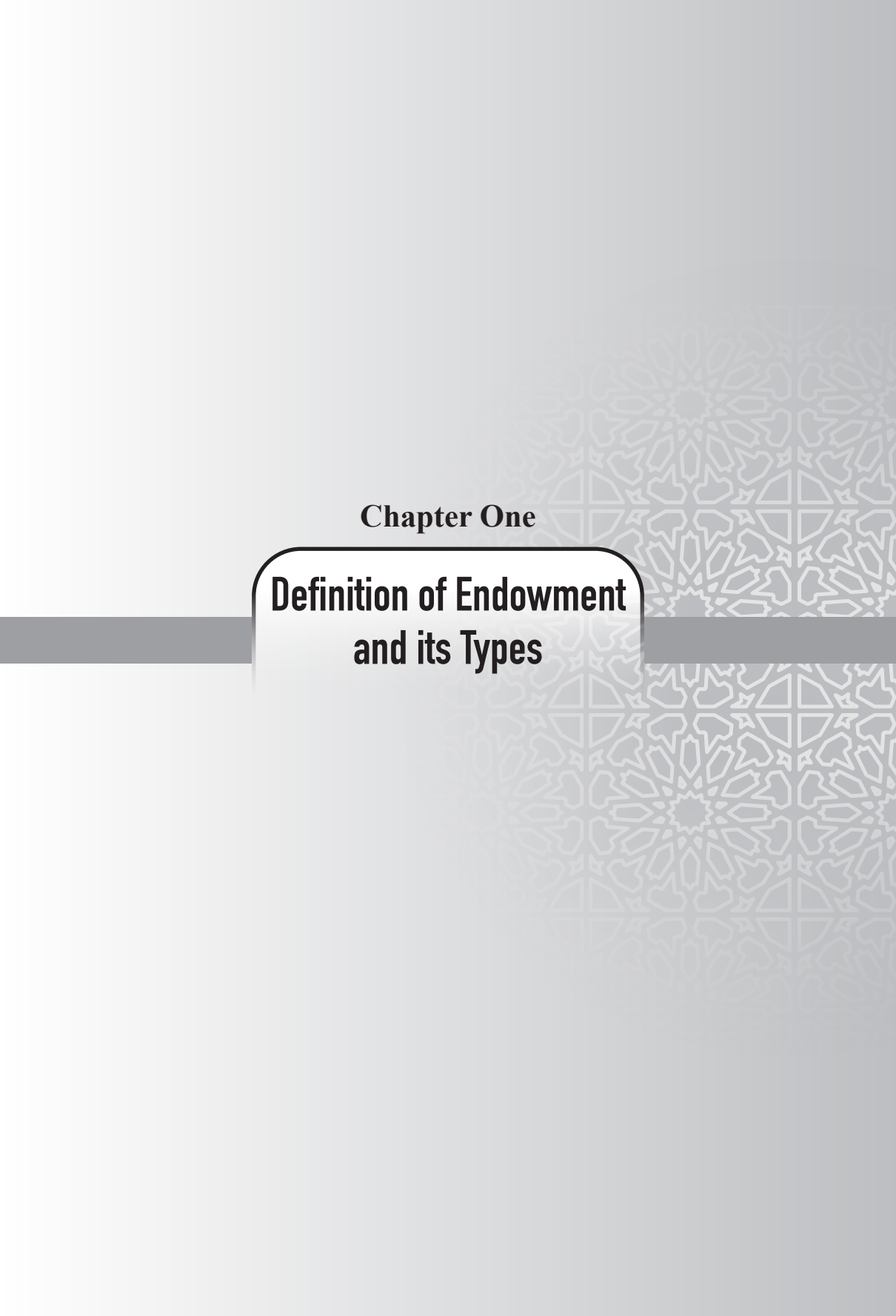
Articles (85) and (86)

To achieve the greatest degree of transparency in all matters related to the endowment, Article (85) permits any interested party to request from the entity in charge of endowment affairs any information, data, or copies of documents related to the endowment in exchange for payment of a fee equivalent to the cost of preparing the demanded request. If the party in charge of the endowment affairs refuses or is slow in implementing the previous obligation without an acceptable excuse, the concerned party has the right to resort to the judiciary, which has the right to order the implementation of what is required within the period it specifies, with the possibility of imposing a fine on the endowment administrator and dismissing him, or either of them.

Executive Regulations

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Chapter One

Definition of Endowment and its Types

Article (1)

In applying the provisions of these regulations, endowment means locking up the assets and allocating their benefits.

Endowment Types:

Article (2)

Goodwill and charitable parties receive endowments to seek closeness to Allah the Almighty and His approval.

Article (3)

Civil endowment may be for oneself, offspring, relatives, or others with whom the endower is related by kinship, friendship, or any other human connection. The endowment aims to benefit the beneficiaries and maintain family ties for the endower.

Article (4)

The beneficiary party must have an expiration date for the civil endowment to be valid.

Article (5)

The following are excluded from the rule in Article (4) of these regulations:

1. The endowment is for a fixed period if its term expires before the extinction of the beneficiaries.
2. The endowment which is for an indefinite period, and which ends for any reason before the entitlement is transferred to the beneficiary.

Article (6)

Public goods and benefits refer to aspects of goodness that society benefits from without limitation or specificity, such as schools, hospitals, bridges... and other facilities that are commonly used and benefited from.

Article (7)

The people identified by their characteristics refer to the people who are not identified by their names, but rather by a characteristic that distinguishes them, such as the poor, the sick, or students, or the poor, the sick, or needy students.

Chapter Two

The Pillars of Endowment and the Conditions for its Validity and Enforcement

The pillars of endowment and its validity conditions:

Article (8)

The endowment shall only take place if the following elements are met:

1. The endower.
2. The endowed money.
3. The endowed upon.
4. The endowment formula.

First: the endower:

Article (9)

Endowment may be made by a natural person, a legal person, or both, if the conditions stipulated in the law and these regulations are met.

Article (10)

If the endower is a natural person, the following is required:

1. The endower must be eligible to donate under the laws (regulations) applicable in the country.
2. The owner of the property to be endowed must have full and valid ownership. In applying the provisions of the endowment law and its executive regulations, the state is considered the full and true owner of its private funds.

Article (11)

It is permissible for a non-Muslim to endow assets on the condition that the endowed upon is not an entity forbidden by his law or by Islamic Sharia.

Article (12)

If the endower is a legal person, the following is required:

1. The endowment must be established in accordance with the provisions of the law (regulation).
2. Its objectives must be compatible with the provisions of Islamic Sharia.
3. The endowment must be approved by the competent authority authorized to approve donations according to its statute, whether it is the General Assembly, the Board of Directors, or another internal authority.
4. Its legal representative must express the endower's will to endowment.

Article (13)

The endowment does not end with the demise of the legal person for any reason. Rather, in this case, the endowment takes on the same ruling as an endowment in which the holder dies without legal heirs or relatives.

Second: The endowed Funds:

Article (14)

It is permissible to endow real estate, movables, cash, shares of companies that are permissible to own legally, bonds, moral rights and benefits, and investment units.

Article (15)

The following are required for the money to be the subject of an endowment:

1. It must be upright.
2. It must exist or be known and be precisely defined.
3. It must be completely owned by the endower.
4. It should not be public money.
5. It must be legally beneficial.
6. It must be distinctive if the endowment is a mosque or cemetery.

Article (16)

The endowment of real estate includes what is considered real estate by specification, except for what the endower excludes in his endowment deed.

Article (17)

It is permissible to endow a common share unless the endowment is a mosque or cemetery. But it is permissible to endow a common share of a mosque and a cemetery if the rest of the property is endowment for the same purpose.

Article (18)

It is permissible for someone who possesses suspicious or illicit funds, or whose owners are unknown, to endow them for public charitable purposes other than for purposes of worship, such as building mosques and printing the Qur'an.

Article (19)

It is permissible to endow funds that have illicit returns, provided that their returns are designated as charitable endowments.

Article (20)

The endowment of money may be in the local currency or in any foreign currency, provided that it is not the currency of an enemy country.

Article (21)

The basis of the endowment shares is to preserve them and use their proceeds for the endowment and not to trade them in the financial market. It is not permissible for the administrator of the endowment to dispose of them unless the conditions for exchange are met.

Article (22)

If the endowed cash is invested in purchasing shares, bonds, or other things, it is not an endowment in its entirety unless the endower stipulates that. The administrator may sell it to invest in matters that will greatly benefit the endowment.

Article (23)

Endowment of rights includes all rights that can be valued with money, such as intellectual property rights, scientific innovations, and other similar rights.

Article (24)

Endowment of benefits includes material rights derived from an existing legal situation, such as the usufruct right granted to the owner and tenant of the property. It also includes services, such as endowing the service provided by a hospital, university, or scientific institute, or the benefit of a specific machine, such as endowing the benefit of a car to transport people with special needs.

Article (25)

Benefit endowment set for a specific period does not affect the owner of the property's disposal of his property. The owner has the right to all permissible actions, provided that the endowment's right to benefit is maintained.

Article (26)

It is not considered a condition for the establishment or validity of the endowment to remove the endowed money from the hands of the endower.

Third: The Endowed upon:

Article (27)

The following conditions are required of the beneficiary:

1. The beneficiary must be precisely specified.
2. The beneficiary must be present at the time of endowment. It is valid to endow known assets to existing persons, such as children's children.
3. The beneficiary should not be an entity to which endowment is forbidden in Islamic Sharia.
4. The endowment should seek a kind of righteousness' virtue.
5. According to Islamic Sharia, the endowment should not involve sin or lead to it.
6. The endowment must not violate the laws and regulations applicable in the country.
7. The endowment should not be given to a hostile entity.

Article (28)

If the endower stipulates the beneficiary's acceptance, the acceptance may be explicit or implicit, considering the reality of the situation. If the endower sets a date for the endowment to be accepted, he shall abide by his condition. In the event that he accepts the endowment and then rejects it, the endowment shall return to a public charitable entity unless the endower revokes his endowment which is his right to do. However, if he refuses to accept the endowment and then agrees to accept it, the endowment is valid for him unless the endower revokes it.

Article (29)

If the endowment is for more than one beneficiary and one or some of them lack the conditions stipulated in the previous article, the endowment is valid for the former category but not for the latter.

Article (30)

It is not permissible to exchange or change the beneficiaries except within the limits stipulated by the endower and in the cases stipulated in the law or these regulations.

Article (31)

It is permissible to make an endowment for a non-Muslim if he is a relative.

Article (32)

If the entity of beneficiaries is cut off, in the charitable endowment, or the charitable share in the joint endowment, the proceeds of the endowment shall be spent on another charitable cause whose purposes are similar to the purposes of the first entity.

Fourth: The Endowment Format:

Articles (33)

The endowment is established through the will of the endower alone, who expresses it by the means that suit him, provided that it is understandable and conclusively indicates the course of his will for the endowment.

Article (34)

The endowment is made by the will of the endower, verbally or in writing. If the endower is incapable of doing so, the endowment is concluded by his sign indicating the endowment. The endowment is concluded through the deed of evidence indicating the will of the endower, and when there is a difference in interpretation, the provisions of Islamic Sharia are referred to.

Article (35)

If the endower is deaf and mute, or deaf-blind, or blind and mute, and is unable to express his will, the person documenting the endowment deed must ask him to present an adult relative of his, who will attend with him and sign the endowment deed with him.

Article (36)

As an exception to the provisions stated in Articles (33), (34), and (35) of this regulation, a mosque, a cemetery, as well as movable assets and money— if the value of any of them is less than ()—may be endowed through an act accompanied by evidence indicating the intent of endowment.”

Article (37)

An endowment added to the future as well as a will are valid for an endowment and are subject to the conditions and controls contained in the Sharia rulings and applicable laws (systems).

Article (38)

It is permissible to authorize a third party to carry out the endowment under the rules and provisions of agency.

Enforcement of the Endowment:

Article (39)

If the endowment fulfills the procedures for its declaration in accordance with the provisions of the law and this regulation, it shall be executed, and its effects shall take effect from the date of completion of its registration procedures in accordance with the provisions of the law (system) and this regulation, or from the date specified by the endower in the endowment deed if it is later than the completion of the declaration procedures, taking into account the special cases stated in the following articles:

Article (40)

To enforce the endowment, the written consent of the heirs is required in the following cases:

1. If the endowment is implemented during a terminal illness.
2. If the endowment is added after death.
3. If the value of the endowment exceeds the value of one-third of the endower's estate at the time of his death after excluding the value of debts and other financial obligations that are paid from the estate. Their approval of the excess amount is only one-third of the estate.

Article (41)

The value of the deceased's estate upon his death determines the amount of his endowment to be used, and the amount that requires the approval of his heirs. It may be requested from the court where the estate is divided to determine this value.

Article (42)

The clear or implicit consent of the heirs is considered evidence of their approval of the endowment.

Article (43)

It is considered an authorization and implicit approval of the endowment if the heirs do not issue an objection to the endowment in the cases mentioned in Article (40) within a period not exceeding one year from the date of death or the date of their knowledge of the endowment and its circumstances, if this knowledge occurred after death.

Article (44)

If some of the heirs agree to the endowment of the deceased in the cases mentioned in Article (40) of these regulations and some of them reject it, the endowment shall be implemented in the share of those who agreed and shall not be implemented against the others.

Article (45)

The approval of the heirs or some of them to the endowment in the cases mentioned in Article (40) of these regulations after they do not agree to it makes the endowment effective in the share that was approved starting from the date of this approval.

Article (46)

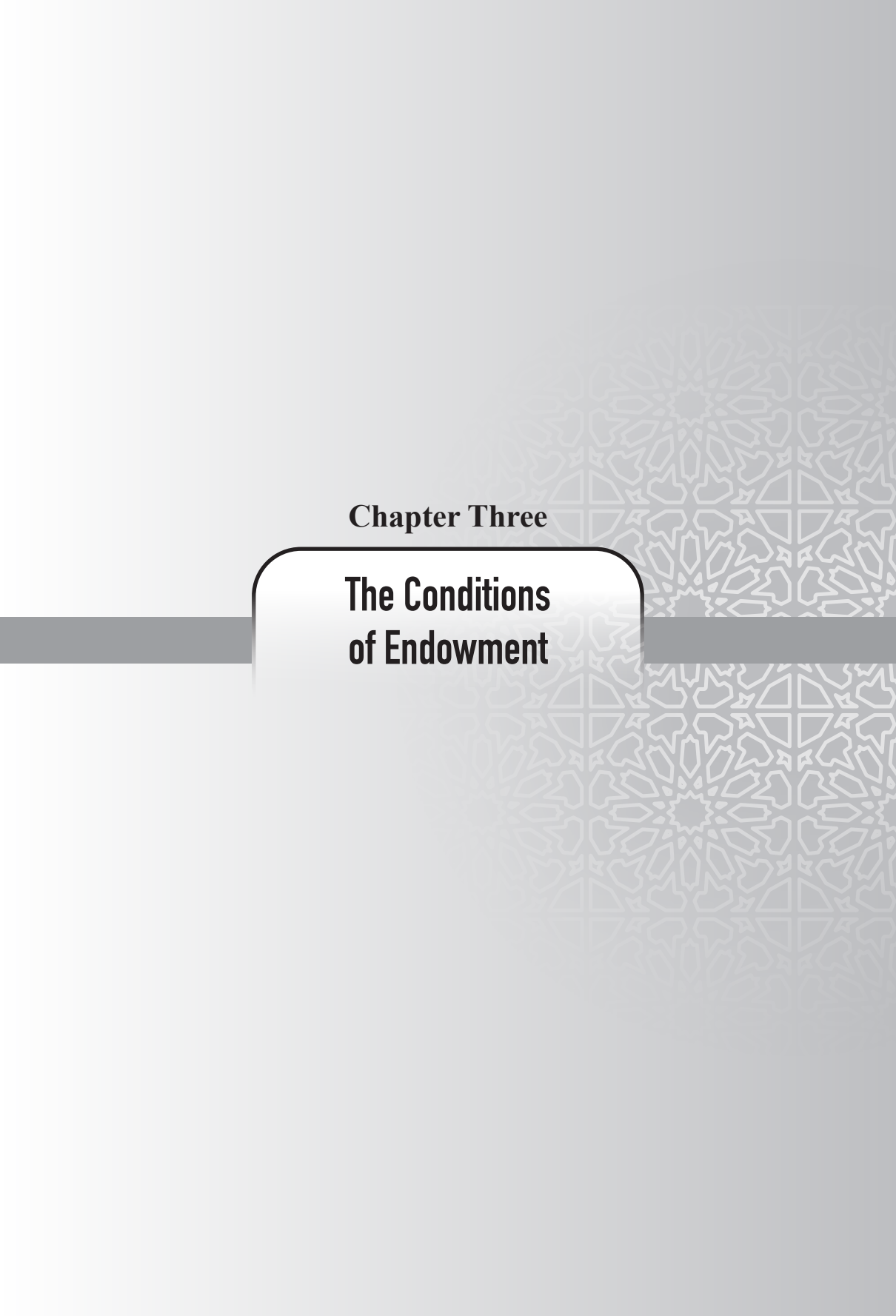
The endowment of a debtor with an outstanding debt cannot be implemented except with the payment of the debt or the approval of all creditors. An outstanding debt means that the endower's debts exceed or are equal to the funds he owns.

Article (47)

Creditors' approval of the moratorium may be explicit or implicit. The expiration of a period of six months from the date of their knowledge of the endowment without expressing their objection to it is considered implicit approval of the endowment.

Article (48)

The endowment of the mortgaged property, whether it is an official mortgage or a possessory mortgage, shall not be implemented except after it is cleared of the mortgage under legal procedures.



Chapter Three

The Conditions of Endowment

Definitions:**Article (49)**

The condition of the endower is his desires that he dictates in the endowment deed of his own free will.

Article (50)

It is considered valid any condition of the endower that does not contradict the purposes of Sharia and the requirements of the endowment and its validity and does not prejudice the interest of the endowment or the beneficiaries, undermine the interest of the project of the endower, or violate the provisions of the law, public order, or public morals. It is also considered valid any condition to endow a share whose value does not exceed a quarter of the net annual proceeds of the endowment, whether the endowment is for the same purposes as the original endowment or other purposes.

Ruling on the Valid Condition:**Article (51)**

An endowment must be implemented if it is accompanied by a valid condition.

Cases of Non-Compliance with the Endower's Conditions:**Article (52)**

It is permissible, by a judicial ruling, not to adhere to the endower's condition if acting on it would harm the endowment or harm its legitimate interests, the endower, or the beneficiaries, such as the condition of non-replacement if necessity or the endowment's interest so requires.

Or the condition that the administrator is not removed if his betrayal or lack of legal or practical capacity is proven. It is also permissible, by a judicial ruling, not to adhere to the endower's condition if he sets conditions for investing the endowment funds that lose their validity with time, which would cause serious loss to the endowment if they were implemented.

Modifying the endowment conditions:

Article (53)

Valid endowment conditions may be modified under the procedures contained in these regulations to achieve one or more of the following objectives:

1. Adding new objectives or new beneficiaries to the endowment.
2. Removing beneficiaries whether permanently or temporarily.
3. Changing the beneficiaries' distribution ratios.
4. Stipulating the endower, his wife, and descendants to benefit from the endowment.
5. Withholding a portion of the endowment proceeds from distribution and adding it to the endowment funds.
6. Choosing and dismissing the endowment administrator.
7. Determining the investment formulas for endowment funds.

Article (54)

The endower may add new conditions to the endowment and delete or amend its conditions in the cases stated in the law and these regulations.

Article (55)

It is permissible to amend the terms of the endowment for those whom the endower has stipulated, within the limits and by following the procedures stated in the deed for the endowment in a manner that does not conflict with the provisions of this law and this executive regulations.

Article (56)

Any interested party, the administrator, beneficiaries, the competent administrative authority, the General Union of Endowments, or the regional union may ask the court for permission to change the conditions to achieve a legitimate interest.

Article (57)

As an exception to the provisions of Articles (53) and (54) of these regulations, the entitlement conditions may not be changed if it is proven that entitlement to the endowment was made with financial compensation or the amendment intended to deprive some of the next-of-kin beneficiaries.

Article (58)

When adding, deleting, or amending any of the conditions of the endowment, the procedures stated in these regulations must be followed, and any amendments that do not follow the procedures referred to will not be considered.

Article (59)

If the person to whom the right of the amendment was stipulated does so, he is not permitted to use it one or more subsequent times unless the text stipulates plurality in the deed for endowment.

Interpretation of the Endowers' Condition:

Article (60)

1. The condition of the endower is considered as the text of the legislator in terms of understanding and significance.
2. If the endower is alive, it is up to him to interpret the ambiguous terms of the endowment.
3. If the endower is dead and there is evidence that indicates his intentions, it must be considered in understanding these intentions. If there is no evidence, then reference is made to the prevailing custom at the time and the country of the endower. In the absence of custom, resort is made to the rules of the language of the endowment deed.
4. In interpreting the will of the endower, the sum of what is included in the deed of the endowment is taken into account, without stopping at a specific word or phrase in itself. Rather, what was included in his entire deed is viewed as an integrated unit, and it is acted upon in what appears to be what he wanted from it and his goal was directed towards it.
5. If two valid conditions conflict, they must be combined whenever possible. Otherwise, the latter condition shall be used, and it will abrogate the first one.

Ruling on an Invalid Condition:

Article (61)

An invalid condition contradicts the ruling of Sharia law or deprives the endower, the endowment, or the beneficiaries of the project's interests. An invalid condition may also be a useless condition, an arbitrary condition, or

it violates the law (regulation), public order, or public morals, including the following:

1. Conditions that restrict the freedom of eligible persons in matters of marriage, divorce, childbearing, and the practice of a certain profession.
2. Conditions under which females are prejudiced against and disadvantaged.
3. Conditions that limit people's public freedoms.
4. Conditions that could lead to ethnic, sectarian, or religious conflicts and strife

Article (62)

The conditions in which the endower seeks a benefit from the beneficiaries, such as paying his debts from the funds of the beneficiaries or requiring them to take care of his family are not considered invalid conditions.

Article (63)

If the endowment is accompanied by an invalid condition, the endowment will be valid while the condition is void.

Perpetuating the Endowment and Determining its Duration:

Article (64)

Civil endowment can only be temporary, while a charitable endowment may be temporary or permanent. If a charitable endowment is absolute, it is perpetual, and the civil share in the joint endowment is temporary, while the charitable share in it may be temporary or perpetual.

Article (65)

If the charitable endowment and the charitable share in the joint endowment are temporary, their durations are determined by a period that must not be less than five years from the effective date of the endowment or the date of a specific event, such as the beneficiaries reaching the age of adulthood.

Article (66)

The duration of the civil endowment or the civil share in the joint endowment is determined either by the time, which must not exceed sixty years and not less than ten years from the effective date of the endowment, or by classes, which must not exceed two classes and not less than one.

Article (67)

A class refers to all children or all siblings who have the same father, and class calculation begins with the endowed upon and then those who follow them.

Article (68)

Years are calculated according to the Hijri calendar.

Article (69)

The endower may specify the duration of his charitable endowment or the charitable share in the joint endowment if it is perpetual as long as he has the right to revoke it.

Article (70)

As an exception to the previous rules and provisions, the endowment shall be permanent in the following circumstances:

1. Endowing the mosque and what was endowed upon it. This can be done by building the mosque or its facilities, the residence of the imam, places for memorizing the Holy Qur'an, giving religious lessons, and event halls attached to them, and endowment of some real estate for the mosque or the aforementioned purposes. The perpetual ruling does not apply to someone who allocates a place for prayer on his property as a form of forgiveness without establishing an endowment deed for this place.
2. Cemetery endowment, meaning any place prepared or allocated by the state or by a donation from individuals to bury the dead. This includes the place designated by the endower for burial in one of his properties.
3. If the endower dies without revoking the endowment and kept it for himself; or if the deed of his endowment included authorizing the administrator to have the right to revoke the endowment; or if the endower delegated someone else to use his right to revoke during his life or after his death, without doing so.
4. Endowment that is perpetuated by a judicial ruling. In this case, the ruling must be final and issued in a dispute submitted to the judiciary before a court competent to do so.

Chapter Four

Procedures for Establishing and Proving an Endowment

Procedures for Establishing an Endowment

Articles (71)

Starting from the effective date of these regulations, the endowment and any amendments thereto or revocation thereof must be established by an official declaration from the person who owns it.

Articles (72)

If the endowment was established fulfilling its validity and enforcement pillars and conditions, or it was revoked or amendments were made to it, the notary body must send a copy of the endowment deed and any amendments made to it or revocation, within a period not exceeding one week from the date of notarization to the following authorities:

1. The competent court that records the endowment and any amendments made to it in its registers.
2. The real estate month if the endowment is real estate.
3. The administrator of the endowment to arrange the legal effects.
4. The beneficiaries if specified by name.
5. The competent administrative authority.
6. General Union of Endowments.
7. The Regional Union of Endowments within whose jurisdiction the endowed funds, or most of them, are located.

Articles (73)

The competent court for Waqf matters is the court where the endower has a permanent residence or where the Waqf properties or most of them are located.

Articles (74)

The administrative authority responsible for endowment affairs must inform the public of the deed of endowment established after the implementation of the law and these regulations as well as any amendments that occur to it and cases of termination of the endowment. This is done by the following means:

1. Publication in various media about endowments in which the value of the endowed funds exceeds an amount in letters () in numbers ().
2. Making posters about endowed assets for at least a month.

3. Placing posters in a visible location with the administrative authority responsible for endowment affairs and other local official authorities within whose jurisdiction the endowment is located.
4. If the endowment has to do with movables of little value, it is sufficient to make them known by posting a notice restricting them to the places to which the endowment has been made, such as mosques, schools, institutes, etc., or at the place of residence of the endower and the beneficiaries if they are registered in their names.

Articles (75)

If the endowment relates to the transfer of ownership rights or a right in rem over a property, which the law requires to be documented in the real estate records, the authority in charge of notarization must transmit a copy of the endowment's deed to the documentation authority to undertake the registration or registration right, provided that the endowment is exempted from the expenses of registration and documentation.

The endower must record the real right of the endowment in those records and obtain evidence of that if he is the administrator of his endowment or in case there is an administrator.

If the endowment relates to a movable property, the endowment deed must be registered with the authorities responsible for registering ownership of movables or licensing them in cases where the law requires this.

Articles (76)

The endowment of the real estate or the endowed real estate rights shall be registered in the real estate records prepared for this purpose and in the applicable procedures. As for other endowed non-real estate funds, they shall be documented in the records prepared for that purpose, if any. The endower, the administrator of the endowment, or their representative must take these measures and register the endowment.

Procedures for Amending and Revoking the Terms of the Endowment:

Article (77)

The procedures stated in Articles (71) to (76) must be followed when modifying the conditions of the endowment, revoking it, or terminating it.

Grievance procedures against establishing the endowment, amending its conditions, or revoking it:

Article (78)

Any interested party may file a grievance with the competent administrative authority regarding the establishment of the endowment, the modification of its conditions, or its revocation, within a period not exceeding sixty days from the date of notification of the endowment, the amended conditions, or the revocation thereof. In case the establishment of the endowment, amendment, or revocation has not been announced, then the date for the grievance begins from the date of certain knowledge of any of the previous matters. In applying the previous paragraph, the descendants of the endower, his relatives (his heirs), the holders of rights over the endowed property, and anyone who suffers harm from the endowment, some of its conditions, modifications made to it, or revocation are considered among the concerned parties.

Article (79)

The competent administrative authority must prepare a register to record the complainant's name, the subject of his grievance, the date it received it, and other data it deems necessary. It must also give the complainant a receipt indicating the reception of the grievance and the date on which it received it.

Article (80)

The minister supervising the competent administrative authority shall form a committee to examine grievances, headed by a judge appointed by the general assembly of the court competent for endowment affairs in whose jurisdiction the competent administrative authority is located. The membership also includes two specialists in endowment affairs from among the employees of the competent administrative authority or from others.

Article (81)

The Aforementioned Committee is Concerned with the Following:

1. Examining the grievances submitted by the concerned parties and expressing an opinion on them within a period not exceeding ninety days from the date of the grievance and notifying the complainant of its decision regarding his grievance.

2. If the grievance concerns formal matters, the committee may complete the formal matters or take measures to rectify the incorrect ones.
3. If the grievance relates to objective matters related to the soundness of the establishment of the endowment and its conditions, validity, and enforceability or amendments made to it or revocation of it, the committee recommends that the competent administrative authority refer the matter to the competent court, through regular litigation procedures, to issue a ruling about the grievance.

Article (82)

The competent administrative authority must notify the complainant of its decision regarding his grievance or the action it has taken within a period not exceeding thirty days from the date of decision by a registered letter accompanied by an acknowledgment of receipt.

Article (83)

The competent administrative authority must notify the endower, if alive, or his heirs after his death, the beneficiaries if they are specified, the General Union of Endowments and the regional union in the region where the endowment or most of its funds are located, or its management center of the subject of the grievances considered by the committee and the committee's decision regarding each grievance. This shall be within a period not exceeding thirty days from the date of deciding on the grievance.

Article (84)

Any interested party may appeal before the judiciary the decisions of the committee within a period not exceeding sixty days from the date of his notification of the decision or from the date of his certain knowledge of it, or to join the competent administrative authority in the endowment cases that the administrative authority evaluates based on the grievances it receives. In addition, any interested party may resort directly to the judiciary in the cases mentioned in Article (18) of the law.

Proving an Endowment:

Article (85)

Starting from the date of implementation of these regulations, a claim for endowment, revocation, or change in one of its expenses or conditions shall not be heard—upon denial—unless a certificate is issued by the person who owns it before the competent authorities in the state.

Article (86)

Endowments established before the issuance of the law and these regulations may be proven by all legitimate means, including documents, credentials, legal data, announcements, hearsay, and all evidence that the competent court is satisfied with.

Article (87)

As an exception to the provisions of Article (86) of this regulation, if the endower of a waqf established before the enactment of the law and this regulation is still alive, they must undertake the procedures stipulated in the law and this regulation. If they fail to do so, the competent administrative authority shall invite them to comply and provide the necessary assistance to complete the process.

Article (88)

Old, defunct endowments, with incomplete information, inexistent evidence related to them, and whose beneficiaries are not known, are considered charitable endowments after they have been announced in the ways mentioned in these regulations, and after the end of the period of three months from the date of the announcement without there being a serious objection to them.

An Endowment Deed Template for Guidance In The Name of Allah, The Most Gracious, The Most Merciful An Endowment Deed for A Real Estate/Movable Property

On / / AH corresponding to / / AD
Before me, I am the judge in the court / the notary
District

In the presence of two witnesses known to me, namely:

1. The first witness: Born in Mother's name
Resides in Occupation ID
2. The second witness: Born in Mother's name
Resides in Occupation ID
Appeared before me Mr/Mrs Born in Mother's name
Resides in Occupation ID

After being introduced and recognized by the two aforementioned witnesses, he/she decided that he/she wanted to be devout to the Almighty through ongoing charity, the benefit of which lasts and whose reward continues throughout this worldly life, so he/she decided, as a witness against himself, in the most complete of the descriptions considered by Sharia and law, that he/she endowed.

.....

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.....

.....

(The endowed property and its descriptions shall be described accurately and comprehensively by mentioning its features and components.)

The endowed upon/beneficiaries

.....

.....

.....

The endower's conditions _____

The administrator of the endowment is _____

The aforementioned endowment is the property whose descriptions, inclusions, and facilities are described above. It is a perpetual/temporary endowment, and an eternal endowment until Allah inherits the earth and whatsoever is thereon. He is the Best of inheritors. So, whoever changes or alters it, Allah is his judge, his questioner, and the one responsible for taking retribution on him. And those who do wrong will come to know by what overturning they will be overturned.

The endower certifies that he/she handed over the aforementioned endowment to the beneficiary, the administrator of the endowment, or his representative if he entrusted the administration to himself, mentioning the conditions he deems appropriate for the person to whom the endowment was handed over, as an administrator or agent on behalf of the administrator.

The endower's signature or thumbprint _____

Signature of the first witness _____

Signature of the second witness _____

Signature of judge/notary _____

Seal of the authority responsible for authentication _____

Chapter Five

Effects of Endowment

The Starting Date of the Endowment's Effects:

Article (89)

The legal effects of the endowment and any amendments or revocation made to it shall begin from the date of completion of its defining procedures under the provisions of the law and these regulations.

Effects of Endowment:

Proof of the Legal Personality of Endowment

Article (90)

The completion of the endowment procedures results in the establishment of its legal personality, starting from the date of its identification.

Article (91)

For the endowment to acquire a legal personality, the following must be proven:

1. Independent financial liability.
2. Eligibility within the restrictions specified in its establishment deed or those determined by law.
3. The right to litigation.
4. An independent domicile, which is considered the place where its management center is located.
5. A representative (administrator) who expresses the will of the endower.

Transferring Ownership and Possession of Endowed Funds to the Endowment

Article (92)

Ownership and possession of the endowed funds shall be transferred to the endowment, and these funds shall be subject to the provisions of the law and these regulations.

Fulfilling the Endower's Conditions:

Article (93)

The terms of the endowment shall be effective from the date of notification of the endowment under the provisions of this law and these regulations.

The Beginning of Administrator's Mandate:

Article (94)

The administrator's mandate begins once he receives the endowed assets. His work begins by preserving these assets, investing well in them, maintaining them, and distributing their proceeds to the beneficiaries following the conditions of the endower.

Commitment to Notify the Competent Authorities of Establishing the Endowment:

Article (95)

The endower, the custodian of the endowment, and the entity with which the endowment is registered must notify both the competent governmental authority, the General Endowments Union, and the Regional Endowments Union which is in charge of endowment and its establishment, any modifications which it undertakes, its revocation, or its cancellation. Each of these entities must also be provided with a copy of the endowment deed or any amendments thereto, as well as cases of revocation.

The establishment of beneficiaries' rights in the endowment:

Article (96)

The rights of those entitled to the proceeds of the endowment or to use its assets or some of them shall begin under the terms of the endower immediately upon completion of the procedures for establishing the endowment.

Endowed Funds Have a Special Nature:

Article (97)

Endowment funds are subject to the provisions and rules regarding endowment funds in this law and these regulations immediately upon completion of the procedures for establishing the endowment.

Chapter Six

Managing Endowed Funds

**First: At the Level of Each Endowment:
The Obligation of Appointing an Endowment Administrator**

Article (98)

Each endowment must have one or more administrators who meet the conditions stipulated in these regulations. The administrator may be a natural person or a legal person.

Legal Status of the Endowment Administrator:

Article (99)

The administrator is considered the legal representative of the endowment, a trustee of its funds, and an agent on behalf of the beneficiaries.

Conditions of the Endowment Administrator:

Article (100)

The natural person responsible for overseeing the endowment must fulfill the following conditions:

1. He must be fully qualified.
2. He must be trustworthy and capable of managing the endowment and taking care of its affairs.
3. He must not have been sentenced to a criminal penalty or a crime against honor or trust unless he has been rehabilitated.
4. He has not previously been sentenced to dismissal from public office or the administration of an endowment.
5. The endower must approve of him if he is alive.
6. The endower must not have removed him from the administration of the endowment before his death or recommended such removal.

Article (101)

The legal person responsible for administering the endowment must fulfill the following conditions:

1. His/its legal existence must be valid.
2. He/it must have competence and experience in managing endowments and their affairs or similar work.

3. He/it must have compatible purposes with those of the endowment under his administration; or philanthropic activities should be among its purposes in its establishment deed.
4. The accounting reports must confirm the soundness of his/its financial position.
5. He/it must not have committed any serious violation of the violations stipulated in the law to which he/it is subject during the three years preceding his appointment.

Appointing an Endowment Administrator:

Article (102)

The endower may set additional conditions for the person responsible for administering his endowment. He may also choose an administrator for his endowment who fulfills the administrative conditions stipulated in these regulations. The endower has the right to change the condition of the administrator even if he does not stipulate that for himself in the endowment deed.

Article (103)

The administration of the endowment is for the endower if he stipulates it for himself. It is also for the person chosen by the endower.

Article (104)

If the endower stipulates that his endowment be administered by whoever is fit among his descendants, and the suitability of one of them is proven, he will be deemed the administrator. It is not permissible to remove him if it is proven that someone other than the descendants of the endower or the beneficiaries is competent. However, if the endower stipulates that his endowment be administered by the best and right-minded of his children, then it belongs to one of them to whom this is proven. If another of the endower's descendants becomes better, the administration will pass to him.

Article (105)

If the endower does not appoint an administrator for his endowment, the competent court shall appoint him, subject to adherence to the rules and provisions stipulated in the following articles.

Article (106)

If the endower sets special conditions and specifications for the administrator of the endowment, the competent court shall abide by them if they are consistent with the valid terms and conditions stipulated in these regulations.

Article (107)

It is not permissible to appoint an administrator for the family endowment from outside the beneficiaries if there is someone among them who is suitable to serve as administrator. If such an individual is found to be righteous, and capable of serving as administrator, the foreigner's mandate ends. If there is more than one deserving person who meets the conditions for administration, it will be given to the person chosen by the most deserving of beneficiaries.

Article (108)

In cases of division of the endowment, or where there is a separate share for each beneficiary, the court shall appoint each beneficiary as an administrator for his/her share provided that they meet the conditions for administration.

Board of Administration (its structure):

Article (109)

The endower may assign the administrator of his endowment to a board instead of one or more individuals. The administration of endowments in which the value of the endowed funds exceeds the amount () shall be given to a board called the Board of Administrators.

Article (110)

The Board of Administrators consists of an odd number of members of not less than three and not more than seven who meet the conditions for administering as stipulated in these regulations.

Article (111)

The Board of Administration shall be composed of the members chosen by the endower. If the endower merely determines the method of selecting them, their specifications, the terms and duration of their membership, and other matters related to the Board, then they shall be adhered to in a manner that does not conflict with the provisions of the law and the rules stipulated in these regulations.

Article (112)

If the endower does not appoint the Board of Administrators, and the endowment deed does not include the method of appointment, the competent court shall select the members of the Board who meet the specifications and the conditions of the endower, if any. Otherwise, the court chooses experts from the fields of specialty of the endowment who meet the conditions stipulated in these regulations.

Article (113)

The endower may specify the terms of board membership. If he does not specify it, the board membership will be renewed half-time every 4 years.

Article (114)

The endower or the clerk of the competent court, as the case may be, must submit to the competent administrative authority, and the General Union of Endowments or the Regional Union, if existent, a copy of the decision issued from the Board of Administrators within thirty days from the date of its issuance, and of every amendment that occurs to the board.

The Board of Administrators also adheres to this procedure as described in the previous paragraph.

Article (115)

Taking into account the provisions in the deed of endowment, if the number of members of the Board of Administrators becomes insufficient for its valid board meetings, the endower or the competent court, as the case may be, must complete the appointment of the number of members of the Board of Administrators or appoint a new Board within a period not exceeding sixty days from the date of the decrease in the number of members. This is based on a request from the competent administrative authority, the General Union, the Regional Union, the Chairman of the Board of Administrators, or any of the beneficiaries.

Article (116)

The Board of Administrators shall have a president who represents the endowment before the judiciary and other entities.

Board of Administrators (its working order):

Article (117)

The Board of Administrators must meet at least once every three months, and whenever the need arises. The board's meeting shall not be valid unless the majority of its members are present, and its decisions shall be issued with the approval of the absolute majority of the number of attendees. When the votes are equal, the side of the president prevails.

Article (118)

The Board of Administrators must carry out the administrative duties stipulated in the law and these regulations under the terms and conditions contained therein.

Article (119)

The administrator of the endowment or the Board of Administrators may appoint a director of the endowment and the appointment decision shall determine the duties to which he is responsible and the compensation to which he is entitled.

Article (120)

The rules and provisions of the endowment administrator contained in this law and these regulations apply to the president and members of the Board of Administrators.

Article (121)

The administrator must receive the endowment funds, take the procedures to register them, preserve them, invest them well, and distribute their proceeds to the beneficiaries, while adhering to the wills of the endowers, the provisions of the law, these regulations, and the legal provisions of the endowment.

Article (122)

The administrator is committed to preparing an annual budget for the endowment, which includes elements of its revenues and expected expenditures during the coming year.

Article (123)

The administrator is obligated to submit an annual report on the endowment that includes a detailed statement of the endowment's revenues and expenses and the means of spending the proceeds according to the form prepared by the competent administrative authority. A copy of this report shall be deposited with the competent administrative authority, and a second copy shall be deposited in the Regional Endowments Union, if existent, within sixty days from the end of the endowment's fiscal year.

Article (124)

The endowment administrator shall keep the accounting records and vouchers of exchange relating to the endowment funds, under the provisions contained in these regulations, for a period of no less than three years after the end of the fiscal year and the approval of the final accounts.

Administrators' Authorities:

A. Regarding deduction from the Endowment Proceeds:

Article (125)

The administrator must deduct an appropriate amount from the proceeds of the endowment before distributing it to the beneficiaries to provide the money necessary to carry out the following:

First: Maintenance of endowment funds in cases where the following conditions are met:

1. Maintenance is necessary.
2. Maintenance should not be conditional on the beneficiary of the property.
3. To be effective and useful.

Second: Financial allocations for doubtful debts under the rules followed in this regard.

Third: Allocations to replace items that are consumed by use and over time.

Fourth: Endowment management expenses.

Fifth: Paying off endowment debts.

B. Regarding borrowing for the endowment:**Article (126)**

The administrator may borrow for the endowment if the following conditions are met:

1. The endowment urgently needs funds.
2. There is no endowment revenue or any other endowment sources that meet this need.
3. The debt must be within a legal, non-usurious framework.
4. Obtaining the endower's approval or the judge's permission, except for small amounts required to fulfill ordinary obligations for temporary matters that the endowment needs in emergency circumstances.

Article (127)**C. Regarding loaning endowment funds:**

1. The administrator may not lend endowment funds.
2. As an exception to the previous rule, it is permissible to lend endowment funds while adhering to the Sharia provisions in the following cases:
 - a) If the lending is one of the purposes of the endowment.
 - b) If the lending is to protect the endowment money from remaining with the administrator.
 - c) If lending to the state is in emergency situations.
 - d) If the loan is to other endowments in need.
3. The administrator may not cancel endowment debts owed to others.
4. The administrator must document the endowment debts owed to others and obtain from the creditor sufficient guarantees for payment, such as a mortgage or other personal or real guarantees.

D. Regarding mortgaging an endowment:**Article (128)**

1. It is not permissible for the administrator, or anyone else, to mortgage the endowed assets.
2. It is permissible to mortgage the benefit of the endowed assets and mortgage the remains of the endowed property after its complete or partial demolition.

E. Regarding acceptance of reconciliation and arbitration:

Article (129)

The administrator may not accept reconciliation and arbitration in disputes related to endowment rights except after obtaining the consent of the endower or permission from the judge.

F. Other responsibilities of the administrator

Article (130)

The administrator must carry out all the duties required by the endowment, in addition to the duties and authorities mentioned in the previous articles. In particular, the administrator has the right to do the following:

1. Preserving the endowment's funds and documenting its contracts.
2. Opening an endowment account in one or more banks and depositing the endowment funds into this account.
3. Investing endowment funds, renting and maintaining its assets.
4. Appointing employees and workers to carry out endowment affairs under actual work needs.
5. Changing the nature of the exploitation of endowment assets within the limits of legal regulations and rules contained in the law and these regulations.
6. Concluding contracts and pledges related to legal relations to which the endowment is a party.

G. Actions that the administrator may not perform:

Article (131)

The administrator may not do any of the following:

1. Leasing to himself, or one of his ascendants, branches, or relatives up to the fourth degree, an endowed property, except with judicial permission.
2. Spending one year's proceeds in another year, except in cases approved by the endower, in implementation of the donor's condition, or approved by the competent court.
3. Increasing the salaries determined by the endower or approved by the judiciary.

4. Selling an endowed property or assets without obtaining the endower's consent, if he is alive; otherwise, the administrator should obtain judicial permission to do so.
5. Carrying out any action or concluding a legal disposition that violates the endowment condition or is inconsistent with the provisions of the law and these regulations.

H. Administrator's Responsibility:

Article (132)

The administrator is responsible for his actions related to the affairs of the endowment, especially in the following cases:

1. Denying the endowment.
2. Theft from endowment funds.
3. Wasting endowment funds.
4. Not investing endowment funds.
5. Exploiting the endowment for his own benefit.
6. Irregularity in disbursing the endowment proceeds to those entitled to them.
7. Failure to comply with the conditions of the endower, the provisions of the law, these regulations, and the Sharia provisions.
8. Refraining from maintaining and developing endowment funds.
9. If those entitled to the endowment proceeds prefer spending the proceeds than redeveloping the endowed assets despite the need for it.
10. Negligence in performing administrative duties.
11. Disbursement of endowment funds without documents proving it, except for what is customary and does not require documentation.
12. Failure to maintain regular accounting records and prepare an annual budget for the endowment.

Article (133)

If the administrator is proven to be responsible, the judiciary may impose on him, depending on the extent of the violation, any of the following penalties:

1. A warning.
2. Deduction from the administration fee not to exceed half of the monthly allotment assigned to him at any time.

3. Suspension of administrative duty and appointing a temporary administrator for a specific period.
4. Dismissal from the administration.

Article (134)

The application of any of the penalties mentioned in the previous article shall not prejudice the following:

1. Penal liability in cases that require it.
2. Civil liability in cases of excessive negligence, as well as in cases of destruction and misuse of endowment funds.

I. Overseeing the administrator:

Article (135)

The actions of the administrator, whether an individual, a group, a civil society organization, or a governmental entity, are subject to the rules of Sharia audit in matters related to the endowment.

Article (136)

The administrator's work is subject to the rules of financial and administrative auditing carried out by the following entities:

1. The competent administrative authority under the rules and provisions of the law and these regulations.
2. The general assembly of endowments of collective endowments, in whose bylaws the endowers establish the rules and provisions for its oversight of the administrator.
3. The general assembly of the beneficiaries, if specified by name or capacity and their number does not exceed fifty individuals in accordance with the conditions of the endowers.
4. The general union of endowments and the regional union of endowments within whose jurisdiction the endowment is located, in accordance with the provisions of the law and these regulations.
5. Oversight agencies in the state according to their structures and frameworks.

J. Administrator's fee:**Article (137)**

1. If the endower specifies a wage for the administrator, it is his, even if it exceeds the equivalent salary.
2. If the endower sets a salary for the administrator that is less than the equivalent, the judge may increase the wage to the equivalent salary upon the administrator's request.
3. It is permissible—based on the endower's will—that the administrator's salary be a certain amount of the benefits of the property or a specific percentage of its revenues.
4. If the endower does not specify the administrator's wage, he shall have the equivalent wage, the amount of which is determined by the competent administrative authority.
5. The competent court may grant the administrator a special reward if the profits of investment of endowment assets increase over the previous year by a rate of no less than 15%. The court shall determine the percentage of the reward.

Article (138)

The administrator is not entitled to this wage if he does not perform his administrative duties, even if illness is the reason.

Article (139)

The administrator's right to claim a salary shall be forfeited with the passage of one Gregorian year starting from the due date. This is because it is considered a periodic, recurring debt.

Article (140)

The administrator is not entitled to a salary as of the end date of his administration of the endowment.

K. Agency in Administration of the endowment:**Article (141)**

It is not permissible for the administrator to assign others to perform all administrative tasks. However, he may authorize others to carry out some

administrative tasks under his supervision and within the framework of his responsibility.

L. The end of Administration

Article (142)

The term of the endowment administrator ends for one or more of the following reasons:

1. Termination of the endowment for any reason.
2. The expiration of the period specified for the endowment administration if it is for a limited period, or the expiry of the membership in the Board of Administrators.
3. Death.
4. Resignation.
5. Dismissal from the administrative board by the will of the endower or by a judicial ruling.

Article (143)

The administrator's mandate ends with the end of the endowment, and he remains responsible for preserving the endowment funds, implementing his obligations, and collecting its rights until the endowment funds are delivered to the beneficiaries under the provisions of the law.

Article (144)

The administrator's mandate ends, and he is obligated to hand over the properties of the endowment to the next administrator if the endower specifies a period for a specific person to be the administrator of the endowment. Moreover, the administrator's mandate ends if the endower stipulates that the current administrator remains in charge until a specific event occurs, such as the endower's child reaches the age of majority, or if he stipulates that the administration be given to the most senior of his descendants and this characteristic is fulfilled in a person other than the administrator.

Article (145)

It is not permissible to recourse against the administrator claiming civil liability for his duties after five years have passed from the end of his administration of the endowment or five years from the date of certain knowledge of the incident that requires liability.

Article (146)

The administrative expenses of the endowment, including the administrator's salary and the salaries of the employees, may not exceed 15% of the endowment proceeds. In cases of extreme necessity determined by the administrative authority responsible for endowment affairs, this percentage may be exceeded for a limited period, not to exceed twice the percentage referred to.

Article (147)

The heirs of the deceased administrator are obligated to notify the competent administrative authority within a period not exceeding one week from the date of death. They are also obligated to hand over to this authority all the endowment's belongings, funds, books, and documents, to instruct the competent administrative authority on the whereabouts of the endowment's properties, and to provide the information available to them about the endowment.

Article (148)

The competent administrative authority must preserve endowment funds whose administrator has died, undertake the management of its affairs, and request the endower, if alive, to appoint an administrator for the endowment, or refer the matter to the competent court to appoint a replacement administrator, taking into account the conditions of the endower.

Article (149)

The administrator may express to the endower, if alive, his desire to resign as administrator of the endowment and set a date for this resignation. If the endower is not alive, the administrator expresses this desire to the competent administrative authority, which submits the matter to the competent court to appoint a replacement administrator.

Article (150)

The endower has the right to dismiss the administrator of his endowment, whether the endower was the one who chose him, or he was chosen by any other party, and he appoints a replacement administrator instead.

Article (151)

Any interested party may request the competent court to remove the administrator if he loses the capacity of administration, especially in the following cases:

1. Loss of one or more of the conditions for administration mentioned in these regulations.
2. Violation of laws and regulations, non-compliance with the terms of the endower, or non-compliance with the legal provisions of the endowment.
3. Poor Management of the endowment affairs causing losses or limiting its revenues.
4. Abusing endowment funds or facilitating others' Abuse of them.
5. Negligence, recklessness, or serious risk with endowment funds.
6. Persistence in refraining from maintaining or redeveloping the endowment's funds.
7. A severe illness that prevents the administrator from tending to the endowment affairs.
8. Intentionally harming or exposing the endower, whether he is alive or dead.
9. Refraining from implementing any of the obligations stipulated in the law or these regulations or failing to adhere to the conditions of the endowment.
10. Negligence in defending, collecting, or claiming endowment rights.

M. Appointing an Auditor:

Article (152)

The administrator of the endowment or the board of administrators, as the case may be, in endowments in which the value of the endowed funds exceeds the amount... must appoint an auditor from among the accredited accountants on the auditors' roster. This auditor must not be an administrator of the endowment or a member of the board of administrators, and he must be approved by the competent administrative authority and determine the value of his annual fees.

Article (153)

The auditor is responsible for the following:

1. The auditor has the right to examine and review the financial and accounting aspects of the endowment, the endowment's books, records, and documents about these aspects. The auditor has the right to request the data and clarifications that he deems necessary to obtain to perform his mission. He also has the right to determine the assets and obligations of the endowment. Accordingly, the administrator of the endowment or the board of administrators must enable him to do all the above.
2. The auditor must supervise inventory operations, review accounts at the end of the fiscal year, and submit a report on the inventory results to the endowment administrator.
3. The auditor is required to develop a financial system that ensures the proper functioning of the endowment.
4. The auditor must submit a report on the final account and balance sheet of the endowment to the administrator (board of administrators), the administrative authority, and the general union of endowments (if any) within a period not exceeding 45 days from the end of the fiscal year, accompanied by a report from him containing his observations on the final account and budget.

Article (154)

The auditor may attend the meeting of the board of administrators when his report is discussed, read his report on the activities of the endowment, and express his opinion on everything related to them.

Article (155)

If the auditor falls short in performing his duties, the board of administrators may take the appropriate decision in this regard.

General Provisions:

Article (156)

The administrator shall appoint the employees necessary for the endowment, taking into account the size of the endowment funds, the budget and activity of the endowment, and its conditions. The administrator shall also supervise and control their actions.

Article (157)

Employees of the government or local government units may be seconded or assigned to work in endowments.

However, it is not permissible to combine work in the administrative authority responsible for endowment affairs or any entity that contributes to the administration or control of endowments with any work of management or consultation in these endowments.

Article (158)

The most generous provisions of the Labor Law apply to endowment workers.

Second: At the State Level:

(A) Official Management of Endowment Affairs

Article (159)

The state sponsors endowments in all their forms, protects them, guarantees them self-administration, and ensures respect for the conditions of the endowments under the provisions of the law.

Article (160)

The administrative authority designated by the state (called the administrative authority responsible for endowment affairs) is responsible for supervising the endowments and providing care to them, overcoming the problems and obstacles they face, providing support to them, and ensuring the soundness of their work in a way that does not affect their independence.

Article (161)

The state allocates annually, through the budget of the competent administrative authority, the amounts necessary to support endowments, in particular:

1. The necessary appropriations for employees of the agencies specializing in auditing the accounts of endowments, unions, and endowment funds.
2. The necessary appropriations to meet the costs and burdens that result from carrying out other tasks assigned to them by the state.

Article (162)

The state exercises its authority to supervise endowments, unions, and endowment funds via the competent minister and the competent administrative authority. This authority, with its branches, shall be the assistant agency of the competent minister within the limits of the provisions of the law and these regulations.

Article (163)

The competent administrative authority has the right to follow up on the endowment's activities, ensure its validity, and refer to the official authorities any violations or transgressions in the management of the endowment's funds or violations of its systems and provisions.

Article (164)

Endowments are monitored by inspectors appointed by the competent administrative authority. The supervision examines the endowment's activities and verifies its compliance with the laws, regulations, conditions of the endowers, and Sharia provisions. The reports of these inspectors are submitted to the competent administrative authority, which takes appropriate legal measures in their regard.

Article (165)

The competent administrative authority shall inform the general union of endowments and the regional union of the violations resulting from the inspection report on the endowments to assist in eliminating these violations.

Article (166)

The competent administrative authority keeps a special file for each endowment that includes all documents related to it. It also keeps a special register in which the data for each endowment contained in the endowment's deed, the name of the administrator or the board of administrators, and any changes that occur to these data are recorded.

Article (167)

The competent minister for the general union of endowments shall assume all the powers assigned to the competent administrative authority in the law and these regulations.

**(B) Private management of endowment affairs:
The General Union of Endowments:**

Article (168)

A general union for endowments shall be established, which shall have legal personality and be headquartered in the capital.

Its structure:

Article (169)

Membership in the Union shall be from family, charitable, and joint endowments currently existing or established in the future, on the condition that:

1. The deed of the endowment must be documented by the competent authority per the provisions of the law, or the endowment must be one of the endowments that were established before the provisions of the Endowment Law No. ... of the year ... came into effect.
2. The endowment must submit a written application expressing its desire to join the union, including its commitment to implementing the union's decisions and recommendations, accompanied by a membership fee.

Its objectives:

Article (170)

The General Union of Endowments aims to spread, expand, develop, and develop the endowment movement in the country. It also aims to plan, direct, and coordinate endowment activities in a way that contributes to achieving its mission and goals and enhancing its social and developmental role.

Its specialties:

Article (171)

In addition to what is stated in Article (34) of the law, the union has the following powers:

1. Monitoring the functioning of the endowments affiliated with it.

2. Reconciling between the various endowments, and between the administrators and the beneficiaries, regarding any disputes that may arise between them.
3. Approving the work plans proposed by the regional unions and coordinating among them.
4. Representing the endowment sector at home and abroad and participating in international endowment organizations.

Its resources:

Article (172)

The union's resources consist of the following:

1. Contributions from the endowments members of the union at a rate determined by the union's general assembly, not exceeding 2% of the net endowment revenues.
2. The return on investment of the union's funds and its income from the activities and projects it creates or contributes to.
3. In exchange for the services it performs and the activities it practices.
4. Subsidies provided by the government and other public legal persons.
5. The endowments allocated to it as well as the gifts and bequests accepted by the union's board of directors with the condition that they must not contradict its purposes or interests.

Its internal organization:

(A) The General Assembly

Article (173)

The union shall form a general assembly of the administrators of the endowments that participate in its membership and have paid their subscriptions regularly until the date of the call for the general assembly. Each of one or more representatives from the competent administrative authority and the endowers has the right to attend the general assembly meetings under the rules of the union's statute.

Article (174)

The union's general assembly shall undertake the following tasks:

1. Drawing up the union's policy and developing visions and programs that achieve the goals of the endowment movement.
2. Approving and amending the statute and the administrative and financial regulations.
3. Approving the budget, final accounts, and the board of directors' report on the union's activity.
4. Electing the members of the board of directors and withdrawing confidence from all or some of its members.
5. Considering the reports and proposals submitted by the board of directors.
6. Selecting the union's auditor.

Article (175)

The union's general assembly holds a regular meeting at least once a year. The union's board of directors shall determine the date and place of holding the general assembly and shall notify the members and the competent administrative authority of it at least ten days before the date of the meeting. The meeting is valid if attended by more than half of the members of the general assembly. If the legal number is not complete, the meeting will be postponed for two hours, and it will then be valid if attended by one-third of the members. Otherwise, the meeting will be postponed to another date within a month at most, of which the members will be notified. In this case, the meeting is valid with the attendance of (20%) of the number of members. If the previous percentage is not complete, the meeting will be postponed for two hours and a valid meeting will be held after that, regardless of the percentage of attendance.

Article (176)

The general assembly shall meet in an extraordinary manner at the request of the chairman of the board of directors, two-thirds of the members of the board of directors, or one-third of the members of the general assembly. The procedures followed in ordinary sessions shall be followed in holding the extraordinary session.

Article (177)

The board of directors of the general union must notify the competent administrative authority of the date of the general assembly, whether ordinary or extraordinary, at least ten days before the date set for its holding. The board must also provide the competent administrative authority with a copy of the decisions and recommendations of the general assembly within a period not exceeding one month from the date of its meeting.

(B) Board of Directors:

Article (178)

The union shall form a board of directors of no less than five members and no more than eleven members from representatives of the endowments that participate in the union's membership, elected by the general assembly of the general union by secret ballot for four renewable years. The board is formed by a mid-term renewal system by selecting half of the board members by lottery two years after the first session of the board of directors, after its formation for the first time to select members whose membership will continue until the end of the four-year period. The rest of the members leave the board and elections are held to fill their places. Mid-term renewal elections are held every two years, and the chairman of the board of directors represents the union before others and before the courts.

Article (179)

The board of directors of the general union shall manage its affairs and shall have the authority to consider all matters over which there is no provision for the general assembly's jurisdiction, and in particular shall have the following powers:

1. Supervising the implementation of the union's general policies decided by the general assembly and implementing its decisions and recommendations.
2. Preparing the annual report on the union's activity and presenting it to the general assembly.
3. Preparing the draft annual budget of the union and the final account for the year ended, reviewing the auditor's reports, and providing the competent administrative authority with a copy thereof on the scheduled dates.

4. Preparing the financial and administrative regulations that govern the union's functioning.
5. Forming specific and sub-committees to assist it in achieving the union's objectives.
6. Appointing the necessary employees to work in the union.

Article (180)

The meeting of the board of directors shall not be valid unless the majority of its members are present, and its decisions shall be issued with the approval of the absolute majority of the number of members present. If the votes are equal, the opinion of the chairman of the session shall prevail.

Article (181)

The board of directors of the general union shall establish its bylaws, indicating its rules and work regulations.

Article (182)

The board of directors of the general union may appoint from among its members or from non-members a director whose appointment decision shall include the definition of his powers.

The Regional Union:

Article (183)

The union's board of directors forms regional unions, with one regional union in each governorate/state/region, the base of which will be all the endowments within its geographical framework that have joined the general union.

Article (184)

The regional union represents the general union at the level of its geographical scope and has the following powers in particular:

1. Taking care of the common interests of the endowments in the region and directing them to achieve the interests of the endowment movement.
2. Coordinating the various support services provided to endowments at the regional level.
3. Proposing work plans for its activity, submitting them to the general union, and implementing the work programs assigned to it.

4. Studying the problems of endowments at the local level and working them out.
5. Establishing joint endowment projects.
6. Strengthening the ties between endowments to achieve integration in aspects of agreements and investment.
7. Strengthening ties and connections between endowments and regional civil society institutions to serve the goals of advancing the local community.

Article (185)

The regional union's resources consist of the following:

1. 30% of the subscriptions collected by the general union from its member endowments that are located within the geographical framework of the regional union.
2. The support provided by the general union.
3. The endowments allocated to it, and the gifts, donations, and charity received by the union and approved by the board of directors.

Article (186)

The regional union shall have a general assembly composed of representatives of the endowments within its geographical framework that are members of the general union and whose dues have been paid until the date of the call for the general assembly's meeting.

Article (187)

The regional union shall have a board of directors consisting of several members of not less than five and not more than nine representatives of the endowments participating in the union, elected by the general assembly by secret ballot for a period of four years, and its mid-term renewal shall be carried out in the manner specified for the board of directors of the general union.

Article (188)

The board of directors of the general union shall establish a model bylaw for the regional unions that includes their work systems and how to carry out their activities, in which it follows the provisions of the bylaws of the general union, in a way that does not conflict with the nature of the regional union.

(C) The Endowment Fund for Social Solidarity:

Article (189)

The general union of endowments establishes an endowment fund for social solidarity in the implementation of the provisions of article (39) of the law to contribute to addressing the phenomenon of poverty by providing support and care to economically weak groups.

Article (190)

The fund is managed by a board of directors headed by the president of the general union of endowments and membership of:

1. Two administrators of the endowments affiliated with the general union of endowments, chosen by its board of directors from non-members of the board.
2. Two owners of large charitable endowments chosen by the board of directors of the general union of endowments from other than its members.
3. Two public figures concerned with social issues chosen by the competent administrative authority.

The term of the fund's board of directors shall be four years, and the members may be reappointed for other terms. The board of directors of the general union of endowments shall issue a decision to form the board and its work system and to form its technical secretariat.

Article (191)

The fund's board of directors is the body controlling and managing its affairs and has the right to take whatever decisions it deems necessary to achieve the purpose for which it was established. In particular, it has the following powers:

1. Drawing up the Fund's general policies and developing the necessary programs to achieve its objectives.
2. Approving policies and systems for providing various aspects of support and care to economically vulnerable groups and setting controls and rules for the distribution of the subsidies it provides.
3. Conducting studies on the phenomenon of poverty and its causes, ways, means and procedures to reduce it, and creating a special database for it.

4. Coordinating with government agencies, associations, and civil institutions working in the field of social solidarity to achieve effectiveness and integration of efforts in this field.
5. Establishing systems to develop the Fund's resources and taking the necessary measures in this regard.
6. Approval of the Fund's internal regulations.
7. Approval of the draft annual budget and final accounts of the Fund.
8. Considering the periodic reports submitted on the progress of the Fund's work and its financial position.

Article (192)

The Fund's resources consist of the following:

1. The contribution of endowments members of the general union, whose annual revenue amounts to the amount of and within the limits of the percentage determined annually by a decision of the board of directors of the general union of endowments, not to exceed ten percent of the net annual revenue of the endowment.
2. 35% of the proceeds of all charitable causes.
3. The endowments allocated to it, and the gifts, donations, and charity received by the Fund.

Chapter Seven

Investing Endowed Funds

General Rules and Provisions:

Article (193)

If the assets are endowed for utilization and use, they may not be invested except in the cases specified by the law and these regulations.

As for endowed assets designated for exploitation, as well as cash, the custodian is required to invest them to generate revenue that will be spent on the purposes specified by the endower, in accordance with the provisions of these regulations.

It is permissible to invest the surplus proceeds from the endowment, financial allocations, and exchange⁽¹⁾ per the terms and conditions in these regulations.

Article (194)

As an exception to the provisions of the first paragraph of Article (193) of these regulations, it is permissible to rent the endowed asset to benefit from it and exploit it if no eligible person uses it.

Investment Conditions:

Article (195)

The following requirements are required to invest endowed funds:

1. Achieving the interests of the endowment.
2. Taking into account the rights of the beneficiaries.
3. Not violating any of the endower's conditions and adhering to the specified type of investment of the assets set by the endower as long as such investment is feasible.

Article (196)

The following conditions are required to invest the endowment proceeds:

1. Payment of the beneficiaries' shares or the investment must be put on hold until the proceeds are distributed to the beneficiaries.
2. If the endower stipulates that a share of the proceeds be invested.
3. The investment should be in investment forms that are easy to liquidate when needed.

(1) Exchange is the sale of an endowment property for an allowance of cash

Article (197)

The following are required to invest allocations:

1. It must be surplus to the endowment's need.
2. Its investment should be in a way that facilitates its liquidation when needed.

Article (198)

The following requirements are required to invest the exchange money:

1. The immediate purchase should not be possible for an alternative asset for the endowment asset that was sold.
2. The investment should be in investment areas that are easy to liquidate when there is a need to purchase an alternative asset.

Article (199)

In addition to the conditions stipulated in Articles (198), (197), (196), (195), and (194) of these regulations, to invest endowment funds, be they assets, cash, royalties, allocations, or exchange money, the following conditions must be met:

1. The investment must be in one of the forms of investment that is permissible according to Islamic Sharia.
2. The investment must be safe.

Article (200)

Considering what is stated in Articles (19), (15), and (14) of these regulations, if the endowment devolves into the ownership of shares or stakes in a company or project that has a prohibited return, then the proceeds shall be its funds under the same ruling as charitable endowments. The administrator of the endowment must work as quickly as possible to replace these funds with what is permissible according to Islamic law, even if this violates the condition of the endower if it conflicts with the text of the legislator.

Article (201)

The endowment administrator must adhere, in the investments of endowment funds, as much as possible and within the limits of capacity, to the following directives:

1. Shielding the endowment funds from high degrees of risk by refraining from dealing in commodities or markets with high risks.
2. Directing the endowment's investments to investment entities that operate in good deeds and avoiding misdeeds.
3. Directing the endowment's investments to economic, social, and urban development.
4. Giving priority to projects that benefit the poor and create job opportunities.
5. Achieving a profitable return.
6. The priority should be for investment in Islamic societies and regions.

Obligations of the person responsible for investing the endowment money:

Article (202)

The investment of endowment funds into any project must be preceded by a scientific study and analysis of the investment opportunities and comprehensive evaluation, especially in terms of guarantees and guarantors and their classification.

Article (203)

If the expected returns from investing the endowment money are less than the percentage of returns on deposits in banks that adhere to Sharia provisions, the investment project will not be feasible, and the administrator must keep the endowed funds away from such a project.

Article (204)

Endowment money is invested in aspects that are consistent with the nature of the invested money and using investment formulas that are appropriate for each investment field.

Article (205)

The administrator of the endowment may entrust a specialized party to invest all or some of the endowment funds while adhering to the provisions contained in these regulations.

Article (206)

The entity entrusted with investing endowed funds must fulfill the following requirements:

1. It must be a specialized entity in investment in accordance with its statute and the license issued to it.
2. It must be committed to the legal provisions.
3. It must be established in accordance with the provisions of the law.
4. To have a high degree of credibility, transparency, and trust.
5. It must have any judicial rulings issued against it that undermine confidence in it or its leadership.

Ways of investing endowment funds:

Article (207)

Endowment funds are invested in one or more ways approved by Sharia, including:

1. Agricultural lands.
2. Vacant lands allocated for buildings.
3. Built real estate.
4. Productive projects.
5. Service projects.
6. Money bills.
7. Islamic financial institutions

Forms for investing endowment funds:

Article (208)

Endowment funds are invested using Sharia investment formulas. The most important of these formulas are the following:

1. Islamic participation formula:

- a. Fixed participation.
- b. Diminishing participation described as a liability ending with ownership.

2. Formulas of leasing:

- a. Operating lease for a term.
- b. Lease ending with ownership.
- c. Two lease agreements.
- d. Monopoly.

3. Capital contribution formula:

- a. In companies (stocks and shares).
- b. In Islamic investment funds.
- c. In productive cooperative societies.
- d. In-service cooperative societies

4. Investment accounts with Islamic financial institutions:

- a. Investment deposits on demand.
- b. Investment savings.
- c. Speculation.
- d. Islamic investment bonds.

5. Manufactured goods.**6. Speculative transactions.****7. Murabaha.****8. Funding agency (investment agency).****9. Investment formulas that are compatible with the nature of the endowed agricultural land, which are as follows:**

- a. Farming.
- b. Al-Musaqat.⁽¹⁾
- c. Al-Mugharasa (Sharecropping).⁽²⁾
- d. Lease.

Article (209)

It is permissible to group the investments of more than one endowment into one project subject to the conditions and controls in these regulations.

(1) Al-Musaqat means that a person gives his crop to another person who irrigates and tends to it for a portion of its crop.

(2) Al-Mugharasa is when a person gives the land to someone who plants it and works on it in exchange for a portion of the crop.

Directions to rationalize the investment of endowment funds:

Article (210)

When investing endowment funds, a commitment must be made to reduce the percentage of risks and distribute them according to the following:

1. Applying the principle of institutional work and avoiding individual decisions.
2. Distribution of investments according to sectors, period, currency, and region.
3. Obtaining the greatest possible amount of guarantees thereby leading to raising the level of security.
4. Implementing an accurate system for follow-up, evaluation, and amendment.

Article (211)

When determining the investment period and the dates of disbursement of returns, consideration must be given to providing liquidity for the endowment at appropriate times, which leads to the implementation of the endower's wills linked to specific dates and the fulfillment of the endowment's needs.

Article (212)

The principal must entrust a specialized entity to conduct an evaluation of the endowment's investment activities based on scientific standards, including the following:

1. Standard for preserving endowment funds.
2. Profitability criterion.
3. Investment risk rate standard.
4. Standard of balance between investment areas to ensure diversification and reduce risks.
5. Standard of compliance with Sharia rulings.
6. Standard of compliance with applicable laws and regulations.

Exchange and replacement⁽¹⁾ of endowed assets:

Article (213)

Endowed assets may be replaced or substituted in accordance with the terms of the endowment and the provisions of the law and these regulations, except for mosques and cemeteries that have been operated and used for the purposes for which they were allocated.

Article (214)

Exchange and replacement are not permissible except in the following cases:

1. If the endower stipulates that for himself or someone else.
2. If the yield and revenue decrease.
3. If the state expropriates ownership of endowment funds for public benefit.
4. If there is an expected interest and feasibility from the replacement or exchange.
5. The ruin of the endowed asset.
6. In cases of necessity as determined by the court.

Article (215)

The exchange and substitution may be for all endowment properties, some of them, or one of them.

Article (216)

The right to exchange and substitution is granted to:

1. The endower if he is alive with the condition that he stipulates that for himself.
2. Whoever the endower stipulates that.
3. Whoever the judiciary allows to do so.

Article (217)

As an exception to the provisions in Article (214) of these regulations, if the endower stipulates for himself the right of exchange and replacement, he may replace the endowed property with another. Or he can sell the endowed property whenever he wants and buy another one and endow it, even if the replaced property was abundant and beneficial.

(1) Replacement is the purchase of another asset and making it an endowment with the allowance for which the endowment was sold.

Article (218)

The one for whom it is stipulated to replace or exchange the endowed property may not do so more than once unless the endower stipulates it.

Article (219)

Exchange and replacement shall be executed by judicial permission, except for cases carried out by the endower or by someone for whom the endower has stipulated.

Article (220)

It is permissible to request judicial permission for exchange or replacement for:

1. The endower if he has not stipulated for himself or others the right of exchange and replacement.
2. The beneficiaries, or one of them.
3. Endowment administrator.
4. The competent administrative authority.
5. The general union of endowments.
6. The regional union of endowments

Article (221)

The money obtained from the sale of an endowment to exchange it is considered an endowment, and it is allocated to purchase the replacement.

Article (222)

If the endower stipulates that the type of replacement assets and the replaced ones be the same, the condition is binding. Also, if the endower confines the replaced assets to a specific location, his condition must be adhered to.

Chapter Eight

Eligibility for the Endowment

General Rules:

Article (223)

The proceeds from the endowment shall be spent in the legitimate funds specified by the endower, except for the cases stipulated in the law and these regulations.

Article (224)

The endower may authorize the administrator or others to determine those beneficiaries from the endowment.

Article (225)

It is not permissible for anyone other than those legally entitled to benefit from the endowment funds or its proceeds, except in cases excluded by the law or these regulations. Moreover, it is not permissible to deprive someone eligible to benefit, except in the cases stipulated in the law and these regulations.

Article (226)

The right of the beneficiaries relates to its revenue or benefit and not to the endowed assets.

Article (227)

The proceeds of the endowment or its benefit are a trust in the hands of the administrator and owned by the beneficiaries. The administrator must pay each beneficiary his share of the proceeds of the endowment, and the judiciary will force him to do so if he refuses to pay it on the specified dates without an acceptable excuse. It is considered a violation or negligence to repeatedly refrain from fulfilling the rights of the beneficiaries without an acceptable excuse.

The beneficiary:

Article (228)

The beneficiary is everyone for whom the endower has stipulated a share in the yield, a stock, a salary, or a right to benefit from the endowed property or part of it. If the endower does not specify a person entitled to his endowment, the proceeds of the endowment shall be allocated to all charitable and good deeds.

Article (229)

The endower may stipulate that he can benefit from all or some of the proceeds throughout his life.

Article (230)

The endower has the right to change the expenses of his endowment, whether or not he stipulated for himself, unless this change results in apparent harm, taking into account what is stated in the law and these regulations.

Article (231)

The competent court may change the expenses of the charitable endowment to achieve a greater interest.

Article (232)

After obtaining the ruling of the competent court, it is permissible to use the endowment assets or spend their proceeds on additional expenditures not specified by the endower, if he is not alive, in cases that require so and in which the following conditions are met:

1. The new expenses must be similar in purpose to the original expenses or have priority over the entity specified in the endowment deed. Priority is determined by achieving a higher goal, a broader benefit, or a greater interest.
2. Distributing the proceeds of the endowment between additional expenses and those stipulated by the endower according to objective criteria, unless the latter has lost the reason for the endowment and there is no longer a serious benefit from it.

Article (233)

Considering what is stated in Article (50) of the law, if one of the endower's ascendants, descendants, spouses, or relatives, up to the fourth degree, need the endowment proceeds, they shall be disbursed to the needy among them to meet their basic needs by judicial ruling in the following cases:

1. Inability to earn, such as cases of old age, permanent total and partial disability, widowhood, divorce, orphanhood at a young age, imprisonment, and a family abandoned by its breadwinner.

2. Extreme poverty.
3. Suffering from a mental, chronic, or incurable disease.
4. Individual and family disasters and calamities.
5. People or families with limited income whose average monthly total in cash does not exceed... .
6. Facing extraordinary expenses in cases of treatment, education, marriage, pregnancy, childbirth, childhood, funeral, and others that require urgent and pressing assistance.

Article (234)

Taking into account what is stated in Article (51) of the law, the administrator of the endowment may spend from the proceeds of the endowment or use its assets to mitigate the effects of public disasters and catastrophes in the endowment's locality, under the following rules:

1. Determine the value of the assistance provided by the endowment in such a situation according to official estimates of the value of loss of life and property, injuries, etc.
2. Endowment aid is provided in coordination with governmental and private agencies working in the same field.
3. Proving the need of afflicted families for endowment assistance.
4. The approval of the endower, if she/he is alive, or of the competent administrative authority if she/he is not.
5. The total amount of endowment aid provided annually by the endowment in the application of the provisions of this article shall not exceed 25% of the endowment's total net annual revenue.

Article (235)

Public calamities, catastrophes in the locality of the endowment, and family calamities are any accident that affects one family, a group of families, or a group of individuals from different families in one place and for incidental reasons or a disaster beyond the control of the family or families, such as fires, floods, torrents, earthquakes, house collapses, collisions, drowning, military operations, etc., which result in loss of life, injury, or loss of fixed or movable property, etc.

Denial of Entitlement:

Article (236)

No one may be deprived of all or some of the due entitlement except in the cases stipulated in the law and these regulations.

Article (237)

The endower may deprive the beneficiaries of all or some of what is entitled to them or stipulate in the endowment deed that this should be done after his death if he has strong reasons that the court, after investigation, deems them sufficient, provided that the endowment is not in exchange for compensation.

Article (238)

Whoever kills the endower in a manner that prevents the inheritance, kills one of the endower's ascendants, descendants, or relatives up to the fourth degree, or kills one of the beneficiaries, whether the killer is the original perpetrator, an accomplice, or a false witness whose testimony led to any of them being sentenced to death, and the sentence was executed, is deprived of entitlement to the endowment.

Article (239)

If one of the spouses gives an endowment to the other and stipulates that the beneficiary will be deprived of the entitlement in the event of divorce or marriage to another, and the beneficiary violates this condition, he/she will be deprived of the entitlement.

Article (240)

Any beneficiary who has apostatized is deprived of entitlement to the endowment if his/her religion is important to the endower.

Article (241)

Whoever declares to others that he is entitled to his share of the endowment is deprived of entitlement.

Loss of the right to entitlement:

Article (242)

The right to entitlement shall be forfeited if the endowed upon designated by name or description explicitly rejects the entitlement.

Article (243)

Whoever accepts what was endowed upon him, and rejects it afterward, his right to the endowment will be forfeited starting from the time of the rejection.

Article (244)

If the endowment was given to several people, some of whom accepted it and others rejected it, then the entire entitlement is to those who have received it.

Effects of denial of entitlement or loss of the right to it:

Article (245)

It is not permissible to spend a portion of the proceeds of the endowment on someone deprived of the entitlement, but his/her right will be restored if the reason for deprivation is removed.

Article (246)

Whoever loses his right to the endowment is considered dead concerning this share; therefore, the right will never return to him.

Article (247)

Whoever is legally deprived of some of his entitlement from the endowment is considered to exist concerning the part of which he was not deprived, and dead during the endower's life to what he was deprived of.

Article (248)

The due entitlement to their ascendent is transferred to the heirs if the endower has stipulated the entitlement to himself and his heirs after him.

Waiving the Entitlement:

Article (249)

The endower may assign all or part of his entitlement to someone else.

Article (250)

Taking into account what is stated in Article (28) of these regulations, the endowed upon may not give up all or part of his entitlement to someone else after accepting it, whether for compensation or without compensation.

Article (251)

The beneficiary may appoint someone else to receive the sum to which he is entitled, whether this authorization is for one time or multiple times.

Conditions for disbursing the entitlement:

Article (252)

The following are required for the entitlement to be disbursed:

1. Acceptance if the beneficiary is specific.
2. The endowment must have a revenue that exceeds its reconstruction needs, paying its debts, and paying the salaries of its employees.
3. The person must be among those the endower identifies by name or capacity.
4. The person must be alive at the time of eligibility.
5. He must not be among those whose right to entitlement has been lost or deprived of entitlement under the rules and provisions contained in the law and these regulations.
6. The person must fulfill the conditions specified by the endower, excluding any condition imposed by the endower regarding the entitlement if it restricts the freedom of the beneficiary in matters permissible by Sharia, except for the cases mentioned in these regulations.

Entitlement disbursement time:

Article (253)

If the endower stipulates a specific date for disbursing the entitlement, this condition should be taken into account and the administrator should abide by it.

Article (254)

If the endower does not specify a specific time for disbursing the entitlement, then the nature of the endowed property must be taken into account. Its date will be when the rent is due if the endowed property is leased. If the endowed property is agricultural land or gardens, the due date is related to the date of harvesting or reaping the fruits if the endower is the one who cultivates it. However, if it is leased, the due date is the lease payment date.

Article (255)

If the endower does not specify a specific date for disbursing the entitlement, the administrator may agree with the beneficiaries on a specific date commensurate with the nature of the endowment and the capabilities of the administrator, contrary to what was stated in the previous article. If the beneficiaries and the administrator do not agree on a date, the court shall determine a date for disbursing the entitlement.

Dividing the proceeds among the beneficiaries:

Article (256)

If the endowment is shared and the endower does not distribute the shares, proceeds will be divided equally between the deserving individuals and charities.

Article (257)

It is permissible for the beneficiaries to be entrusted with the use and exploitation of the endowment assets themselves according to their specific shares in a manner that does not conflict with the terms of the endowment.

Article (258)

Each person entitled to the endowment may request the separation of his share if the endowment assets are divisible and the division does not cause obvious harm. The administrator of the charitable share is considered one of the beneficiaries when requesting the division, provided that this does not conflict with the endower's condition.

Article (259)

Taking into account what was stated in the previous two articles, if the entire endowment is charitable and contains some special charitable aspects, then if the administrator is one, the endowment is not divided. However, if each share has a special administrator and the property is divisible and one of the administrators requests the division of the endowment, it will be divided according to a ruling from the competent court.

Article (260)

If the endowment is shared and one of the concerned parties requests the charitable share to be divided, then it is done by ruling from the competent court, provided that the endowment assets are divisible, and the division does not cause serious harm to them.

Article (261)

In order to accept the division, the endower's approval is required if he is alive, and the competent court's approval is required in the event of the endower's death.

Priority in entitlement distribution:

Article (262)

Priority in spending from the proceeds of the endowment shall be for its necessary redevelopment, whether the endower stipulates that or not, followed by repayment of the endowment debt that was borrowed in the cases and under the conditions stipulated in these regulations.

Article (263)

If the redevelopment of the endowment and the repayment of the debt, or one of them, consumes all the proceeds, the entitlement is not distributed. If both or one of them take part of the proceeds of the endowment and only an insufficient amount remains, the entitlement is given to whoever is subject to clear harm in cutting off the right, taking into account that priority should be given to the endower's relatives.

Article (264)

If the endowment is charitable, the entitlement is distributed starting with the closest to the endower and going forward, if they are poor, needy, or disadvantaged, even if the endower does not stipulate that.

Some provisions of entitlement to charitable endowments:

Article (265)

If the endowment is for a charitable cause and the proceeds exceed what the endower has stipulated, the excess shall be spent on other charitable purposes that are close—as much as possible—to what achieves the endowment's purpose, provided that the permission of the competent court is obtained.

Article (266)

If the endowment is for a charitable purpose and the proceeds from the endowment are less than what the endower stipulated for charitable purposes, religious rituals take precedence over other charitable purposes.

Article (267)

If the endowment is charitable for an entity whose fees have disappeared, its benefit has ceased, the state has undertaken its expenses, or its income has increased from other sources of endowment income, the proceeds shall be spent on other charitable entities that are as close as possible to achieving the endowment's purpose, after obtaining the permission of the competent court.

Article (268)

It is permissible—after the approval of the competent court—to take from the surplus proceeds of charitable endowments to spend on charitable organizations that the administrator deems necessary to assist.

Article (269)

It is permissible—after the approval of the competent court—to borrow from the proceeds of an endowment or endowment exchange funds for the benefit of another endowment.

Article (270)

The proceeds from all charitable causes are spent on the following charitable causes:

1. Social Solidarity Fund.
2. Addressing prevailing social phenomena such as the increase in spinsterhood, divorce, and other social phenomena.
3. Addressing the problem of unemployment.
4. Supporting the role of education.
5. Spreading contemporary culture, especially in the field of human rights.

Some provisions of entitlement to family endowment:

Article (271)

If any branch of the beneficiaries becomes extinct or its category ceases to exist, its share reverts to the ownership of the endower, unless the endower has stipulated its transfer to another entity.

Article (272)

If the endower specifies the beneficiaries as his children, then the daughter's son is included among the children.

Article (273)

If the endowment includes unestimated salaries, the court will determine it.

Article (274)

The salaries specified under the endower's condition for someone who does not work in the endowment shall not be increased no matter how much the proceeds of the endowment do.

Article (275)

If the proceeds of the endowment are not sufficient to cover the specified salaries, these salaries shall be reduced in proportion to the decrease in the revenues.

Article (276)

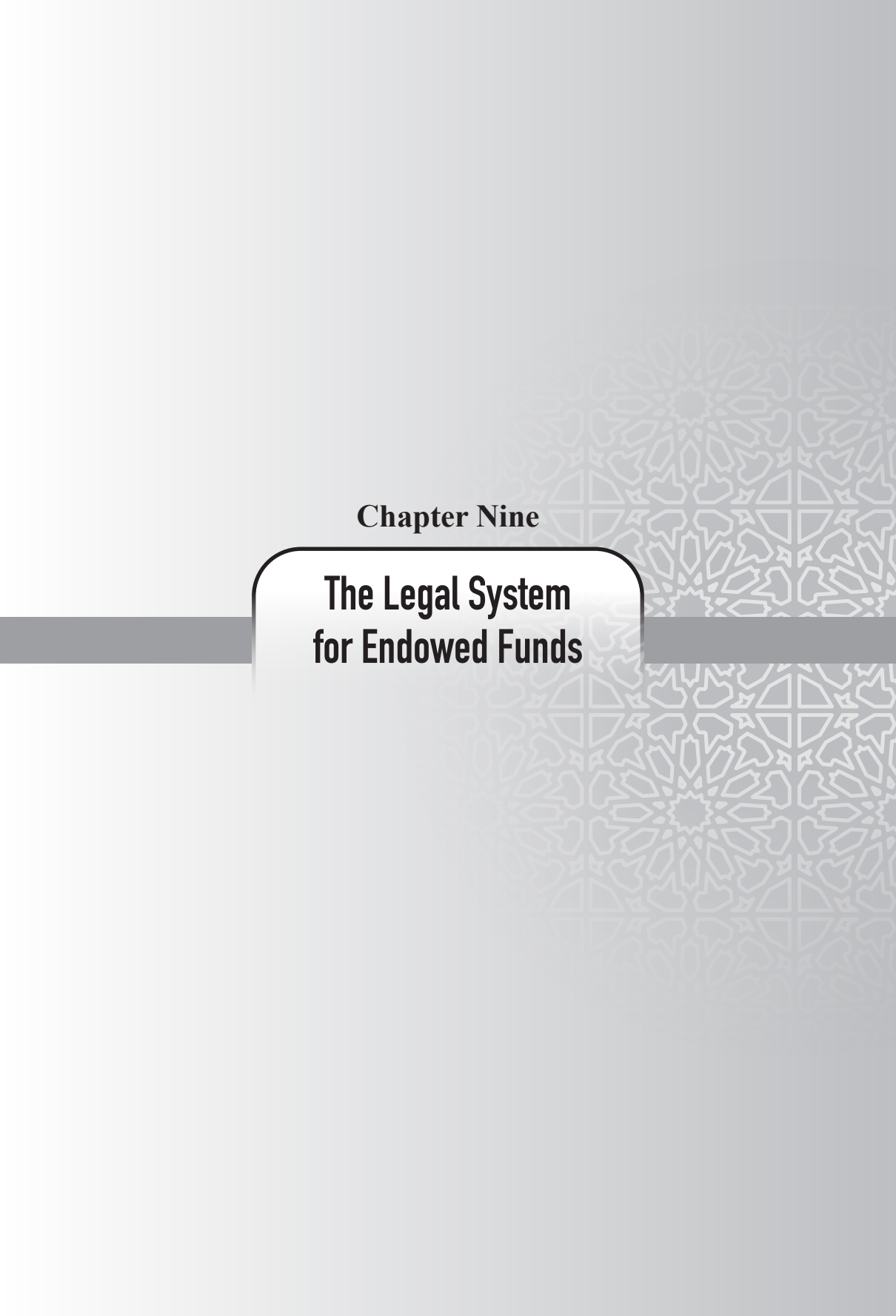
Endowment funds are allocated to be spent on achieving its purposes, and it is not permissible to spend them on anything else, just as it is not permissible to mix endowment funds with other public or private funds.

Article (277)

It is not permissible for the beneficiaries to obtain for themselves a portion of the endowment proceeds without obtaining written approval from the administrator of the endowment.

Article (278)

The administrator of the endowment may, after obtaining the approval of the competent court, purchase work tools for the beneficiaries or establish a project for them from the proceeds of the endowment as an alternative to distributing all or part of it to them.



Chapter Nine

The Legal System for Endowed Funds

General rule:**Article (279)**

Endowed funds may not be disposed of, except in the cases stipulated in the law and these regulations, when the conditions are met, and the procedures contained therein are followed.

Ruling on transactions transferring ownership:**1. Sale****Article (280)**

It is not permissible to sell the endowed property, whether the price is appropriate to its value, more than its value, or less, except in the cases stated in the law and after following the procedures specified therein and in these regulations.

Article (281)

Any sale of an endowment property other than the cases stipulated in the law is considered absolutely invalid, whether the sale is made by the endower, the administrator of the endowment, the beneficiary, or any other person because the sale occurred on property that cannot be disposed of in a manner that transfers ownership by virtue of the law.

2. Gift**Article (282)**

It is not permissible to donate endowed property, even if the gift is from the endower. Any contract that includes a gift of endowed property is considered absolutely invalid.

3. Will**Article (283)**

It is not permissible to make a will regarding endowment items, and the will is considered absolutely invalid, whether it was issued by the endower or someone else.

4. Waiving endowed assets to others:

Article (284)

Any waving of the endowed property to others shall be absolutely null and void.

5. Inheritance

Article (285)

Endowed assets are not part of the estate of the endower or beneficiary, and their ownership is not transferred by inheritance as long as the endowment exists.

6. The statute of limitations for ownership:

Article (286)

Ownership of endowed property is not transferred by appropriation, even if time passes, and no right in rem over the endowed property is acquired over time.

7. Expropriation for the public interest:

Article (287)

Public authorities may expropriate ownership of endowment objects for the public interest, provided that the endowment is compensated for these objects in cash at the equivalent price or an item of state property whose value is at least the same as the value of the endowment asset, whichever is more beneficial to the endowment.

Non-transferable and non-permissible transactions:

Article (288)

Endowment assets may not be loaned, mortgaged, or seized.

Article (289)

It is not permissible to arrange rights in rem on the endowed funds, and the rights in rem acquired through legal means and held on the endowed assets remain before the endowment is registered in the real estate registry.

Protecting endowed funds from infringement:**Article (290)**

It is not permissible to infringe on endowment funds, and in the event of an infringement, the competent administrative authority has the right to remove it administratively, and the administrator and every interested party must prosecute the trespasser judicially.

Article (291)

Upon denial, the claim for one of the rights of the endowment will be heard, no matter how long it takes.

Preserving and maintaining endowed objects:**Article (292)**

Work must be done to reconstruct and maintain the endowment assets. An amount is deducted periodically from the proceeds of the endowment proportional to the life span of the consumed endowment property and enough to replace the property with a new one when it is consumed.

Borrowing from the endowment and lending for the endowment:**Article (293)**

It is not permissible to borrow from or lend endowment funds except in the circumstances stipulated in the law and these regulations and under the provisions and procedures contained therein.

Granted privileges to endowment funds:**Article (294)**

Charitable endowment funds and the charitable share in the joint endowment are considered public funds in the following matters:

1. Its debts enjoy the same privileges as public funds over the debtor's funds.
2. It is collected through the methods established for collecting public funds.
3. It is exempted from any taxes, fees, and publishing expenses that laws and regulations require to be published in the Official Gazette.
4. It is exempted from judicial fees at all levels of litigation.

5. Applying penal laws that protect public funds on endowment funds.
6. Use the implementation means prescribed by government agencies.

Commitment to the Sharia provisions in all matters related to endowment funds:

Article (295)

Sharia provisions must be adhered to in all matters related to endowed funds, in accordance with what is stated in the law, these regulations, and Islamic jurisprudence under the prevailing doctrine in the country.

Chapter Ten

Terminating the Endowment

1. Reasons for terminating the endowment:

Article (296)

The endowment shall end completely for one or more of the following reasons:

1. The expiration of the specified period if the endowment is time-limited, except in the following cases: the endowment of a mosque, the endowment of a cemetery, the endowment of a person who passes away without revoking their endowment, and an endowment that a judge has ruled to be perpetual.
2. Achieving the purpose that the endower has specified for his endowment if the endowment is for specific individuals.
3. Extinction of the beneficiaries if the endowment was for persons identified by themselves or their characteristics.
4. The endower revokes his endowment in the cases mentioned in the law and these regulations.
5. If the shares of the beneficiaries are reduced according to their social conditions, and it is not possible to replace them with other funds that will generate an appropriate revenue for the beneficiaries in place of the endowed money.
6. If it is proven that the endower intended to deprive the heirs or some of them via the endowment.
7. Destruction or ruin of the endowed assets.
8. Invalidation of the endowment establishment procedures.

Article (297)

The endowment ends partially in the following cases:

1. Diminished share of the beneficiaries.
2. Extinction of beneficiaries of the endowment shares.

Article (298)

Any endowment established in violation of the provisions of the law and these regulations shall be invalid.

1. End of the endowment due to the expiration of its term:

Article (299)

The endowment is terminated with the expiration of the period specified for it by the endower in the deed of the endowment. The silence of the endower or his heirs regarding the continuation of the endowment with their certain knowledge of the expiration of its term is considered implicit consent to the continuation of the endowment. The endowment is considered permanent if this implicit consent continues for a period of five years.

Article (300)

As an exception to the provision contained in Article No. (296), the endowment of the mosque, the cemetery, and the endowment that a judge rules to uphold do not expire, even if the endower specifies a period for it.

2. Achieving the purpose of the endower:

Article (301)

If the endower specifies a specific purpose for his endowment, and the purpose is achieved, the endowment ends.

3. The termination of the endowment due to the extinction of the beneficiaries, or some of them:

Article (302)

If all the beneficiaries of the endowment become extinct and the endower does not specify in the endowment argument alternative expenses, the endowment ends with their extinction even if the endowment period has not expired.

Article (303)

The family endowment ends in all its shares with the extinction of its beneficiaries before the end of the specified period or before the extinction of the class whose endowment ends with its extinction unless the endower has stipulated in the endowment's deed that the share of the extinct person is transferred to another party.

4. Terminating the endowment due to the endower's revocation:**Article (304)**

The endowment ends when the endower revokes the endowment in legally permissible cases and after taking the measures required by the applicable law when establishing the endowment.

5. Ending of the moratorium due to diminished entitlement:**Article (305)**

The endowment is terminated due to the diminishment of the shares of all beneficiaries according to their social conditions, with the inability to develop the endowment's resources to increase the value of these shares.

Article (306)

If the shares of some of the beneficiaries are small and those of others are not, the endowment ends for those whose shares of the proceeds are considered small. However, the endowment remains for the share of the remaining beneficiaries.

6. End of the endowment if it intends to deprive the heirs of inheritance:**Article (307)**

The endowment shall end in cases in which it is proven to the competent court that the endower intended nothing more than to spite his heirs and deprive them of the inheritance.

7. End of the endowment due to the destruction of the endowed assets:**Article (308)**

The endowment ends with the ruin or total destruction of the endowed assets and the inability to restore them to benefit from them.

8. The endowment ends due to the invalidity of the procedures for its establishment:

Article (309)

The endowment is invalidated if it loses one of its pillars or one of the conditions of its validity.

Tool to invalidate and terminate the endowment:

Article (310)

The endowment shall be invalidated or terminated for any reason by a judicial ruling from the competent court.

Those who have the right to request termination or invalidation of the endowment:

Article (311)

Any interested party may request termination or invalidation of the endowment, and they may also appeal the rulings issued in this regard. The endower, his heirs after his death, the beneficiaries, the administrator of the endowment, the competent administrative authority, the General Union of Endowments, the Regional Union of Endowments, and everyone who has a legitimate interest in terminating the endowment are considered as stakeholders.

Notification of the issuance of a ruling terminating or invalidating the endowment:

Article (312)

The competent administrative authority must notify of the issuance of a ruling to terminate or invalidate the endowment within a period not exceeding one month from the effective date of the verdict issued to terminate or invalidate the suspension permanently. The notification shall be in the same manner as the notification of the establishment of the endowment mentioned in these regulations.

Article (313)

Any interested party may take measures to notify of the ruling issued to terminate or invalidate the endowment if the competent administrative authority does not initiate this notification within the time specified in the previous article.

Article (314)

The ruling issued to terminate or invalidate the endowment shall not be considered evidence against third parties in good faith except after notification of it under the provisions contained in the previous two articles.

Article (315)

The administrator of the endowment must notify both the endower, if he is alive, or his heirs, in the event of death, the competent administrative authority, the General Union of Endowments, the regional union in whose jurisdiction the endowment is located, and the beneficiaries if they are subject to the rulings issued regarding the end of the endowment or its invalidation. This is done by registered letter with acknowledgment of receipt within a period not exceeding ten days from the date of issuance of the ruling, even if the ruling is not final.

The soundness of the endowment's actions in the period preceding the issuance of the ruling:

Article (316)

A ruling declaring the endowment void or terminated does not affect the validity of its legal transactions and obligations that arose before the issuance of the final ruling concerning third parties, provided that good faith is present.

Effects of the termination of the endowment:

Article (317)

The ownership of the endowed funds shall be transferred to the endower, starting from the date of issuance of a final ruling invalidating or terminating the endowment, starting from the date determined by the competent court in its ruling. In case of the endower's death, ownership shall be transferred to his heirs.

The endower or his heirs also receive ownership of:

1. Exchange funds deposited with the competent authority.
2. Net endowment proceeds allocated for redevelopment, repair, and replacement purposes.

Article (318)

The creditor of the endowment has the right to seize the funds that have devolved upon the endower or his heirs after the end of the endowment in payment of his debts, and he has priority over the creditor of those to whom the ownership of these assets devolved after the end of the endowment.

Article (319)

Assets that were endowed before a final ruling was issued to terminate the endowment shall remain in the hands of the administrator for safekeeping and management, and he shall have the capacity of guardian over them until they are delivered to their rightful owner.

Article (320)

The administrator is obligated to deliver the assets and properties that were endowed, and their accessories referred to in Article (317) of these regulations to the endower, if he is alive, or to his heirs, after dividing them among the heirs.

Article (321)

As an exception to the provisions contained in the previous articles, if the request to invalidate the endowment is for formal or procedural reasons, the endower, his heirs, the competent administrative authority, the General Union, the Regional Union, the recipients of the endowment, and any interested party may complete or correct these procedures before a final ruling is issued to invalidate the endowment if this correction does not require the intervention of the endower in person or anyone else on his behalf.

Chapter Eleven

Special Provisions for Some Types of Endowment

1. Endowment for public needs:

Article (322)

One or more people may endow money to spend its proceeds to satisfy the general needs of society, segments, sectors, or geographical areas, such as endowment to provide health care for the poor, those afflicted with specific diseases, or the people of a specific region.

Article (323)

If the need for which the endowment was made ends following the previous article, the competent court may authorize the transfer of the endowment to satisfy another need or needs of the same or similar type, which helps to develop society.

Article (324)

If the endowment is carried out to satisfy a public need attended by state agencies, public legal persons, or a civil society organization, it is not permissible to attach conditions to the endowment that differ from the rules and provisions to which these agencies, persons, and organizations are bound. Any condition that conflicts with these rules and provisions shall not be taken into account, as an exception to the rules and provisions of the law and these regulations that require compliance with the endower's condition.

Article (325)

The entity of public benefit through which the endowment is made to satisfy a public need must be established under the provisions of the law and licensed by the state, and its objectives, in accordance with its statute, include satisfying the public need specified in the endowment deed.

Article (326)

In endowments allocated to satisfy public needs, the endower may entrust the endowment he has established with taking measures to satisfy this need or public needs, within the limits permitted by laws and regulations. The endowment is obligated to obtain approvals and licenses from the competent authorities in cases that require this and is subject to the official rules and regulations that regulate satisfying the need or performing the service.

Article (327)

The task of the administrator of an endowment whose purpose is to satisfy public needs attended by public facilities managed by the state, a public legal entity, or through public benefit entities is limited to receiving the endowment funds, preserving them, investing them, handing over the proceeds to the party that fulfills the need, and monitoring the extent of their compliance with the conditions of the endowment in spending. The administrator may not interfere in the performance of services or the satisfaction of public needs.

Article (328)

The endower may not withdraw his endowment allocated to satisfy public needs, except in the following two cases:

1. The poverty of the endower, which is due to his lack of all or most of his money and what he has is not sufficient to meet his needs and the needs of those he must support.
2. The poverty of the endower's descendants and their severe need for the endowed funds.

Article (329)

In the two cases mentioned in the previous article, revocation of the endowment shall be made by a request to the competent court by the endower during his lifetime or by his descendants after his death. The ruling issued in this regard shall determine whether the revocation includes all the endowed funds or is limited to part or parts of them.

Article (330)

If the court rules to revoke the endowment, a time limit shall be set to complete the return of the endowment funds to the endower or his heirs. This period shall take into account the extent to which the performance of the service or the satisfaction of the public need is affected by the loss of the endowment funds and other considerations.

Article (331)

As an exception to the provision in Article (299) of these regulations, if the endowment is intended to satisfy public needs and is for a limited period and the endower or his heirs do not take measures to terminate the endowment after the expiration of the period specified for it, in a period not exceeding

one year, and without a compelling excuse, the temporary endowment will be transformed into a permanent endowment.

2. Collective endowment:

Article (332)

1. It is permissible to establish an endowment in which several persons, whether specified or unspecified, may participate.
2. It is permissible to call for the establishment of an endowment for a specific purpose or purposes under an endowment formula signed by whoever wishes to contribute to the endowment while adhering to the conditions of the endowment formula. The door to joining this endowment will remain open for a specific period or an indefinite period.

Article (333)

The following are considered a collective endowment:

1. Endowment of commons.
2. Endowment for those who own joint ownership of common property.
3. Endowment whose deed includes evidence allowing others to join it.
4. Endowment instruments, including endowment shares, endowment bonds, and Muqaradha (lending) debentures.
5. Endowment funds.
6. Endowment of time.
7. Endowment of services.

Article (334)

The purposes of the collective endowment may extend to all charitable fields, with a focus on the following:

1. Social fields, especially those that are not supported by the state.
2. Fields with high social returns.
3. Da'wah and religious fields.
4. Humanitarian fields.
5. Fields providing public services

Article (335)

Anyone who wishes to join an existing endowment may document a deed for that or join the deed of an existing endowment provided that he adheres to the conditions of that endowment.

Article (336)

The administrative authority responsible for endowment affairs and the general union of endowments must agree to prepare models for collective endowment formulas to guide those who wish to establish these endowments.

Article (337)

The agencies documenting the endowment deeds are obligated to take the procedures for anyone who wishes to join the collective endowment after submitting evidence that the value of his contribution has been deposited with the administrator of the endowment or to the party specified by the administrator.

Article (338)

The conditions of the collective endowment may be modified in the following cases:

1. There must be living endowers contributing to the endowment at a rate of no less than 60% of the value of the endowment funds.
2. The approval of all living endowers to the amendment.
3. The amendment must be consistent with the rules of the law and the executive regulations.

3. Small endowment:

Article (339)

The endowment is considered small if its revenue in each of the last three years is less than (...)

Article (340)

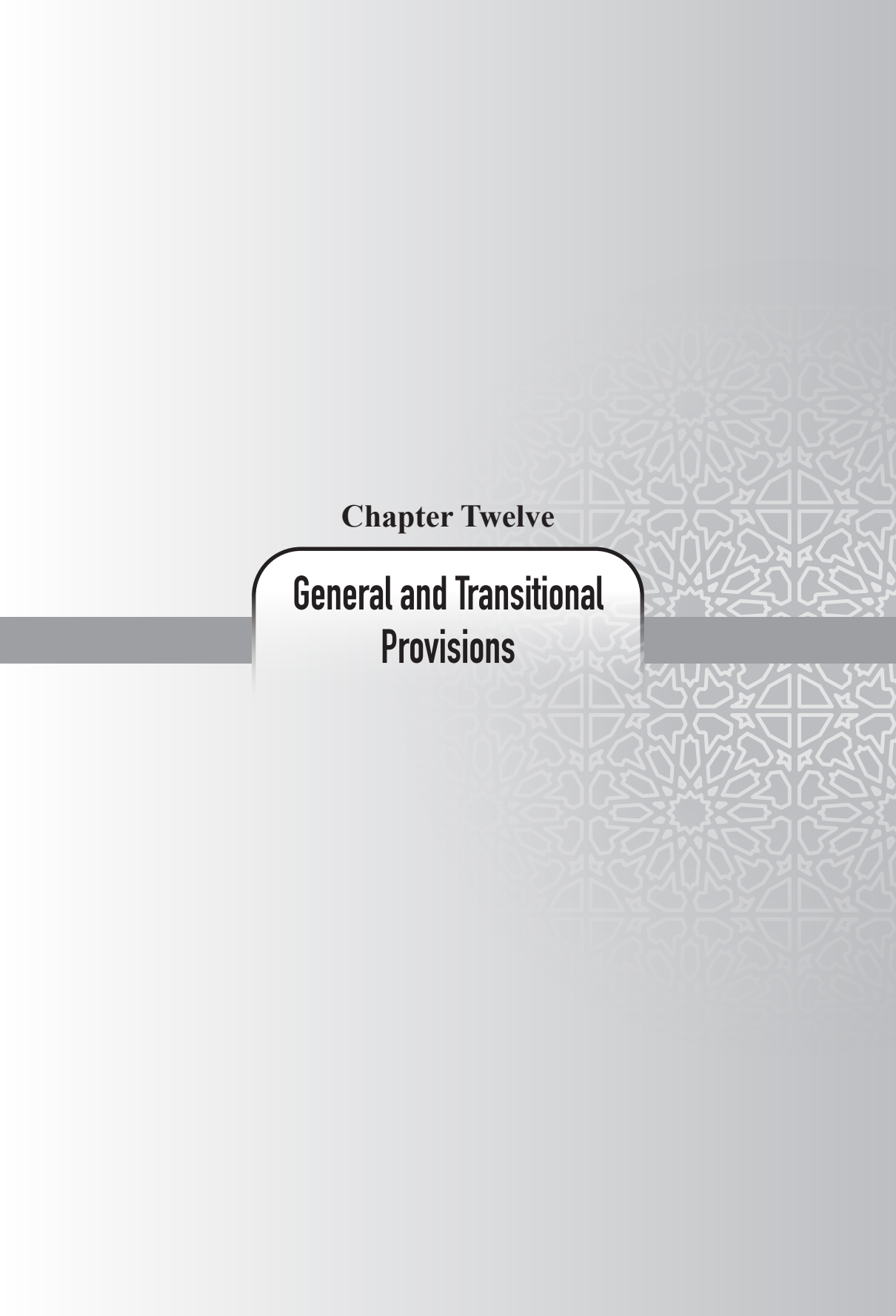
The competent court may order the annexation of small charitable endowments whose purposes are similar.

Article (341)

The legal personality of the annexed endowments ends, and a new legal person is created to which the rights and obligations of the annexed endowments are transferred.

Article (342)

A name must be chosen for the new legal person, extracted from the names of the endowments it contains.



Chapter Twelve

General and Transitional Provisions

Article (343)

It is prohibited for any non-endowment establishment to use in its name, correspondence, or logos the word “Waqf” (endowment) and its derivatives, or to use in its correspondence or logos anything that might suggest that it is an endowment institution.

Article (344)

It is not permissible to approve any name for a non-endowment establishment under the provisions of the law and these regulations if its name includes the word endowment or its derivatives, or to use any logos that may suggest that. The regulatory authorities in the country must prohibit any non-endowment establishment from using the word “endowment” or its derivatives in its papers or logos.

Article (345)

Competent government agencies must oblige any non-endowment establishment that violates the prohibition contained in the previous two articles to make appropriate amendments to its name, logos, and correspondence under the provisions of the law and these regulations, within a period not exceeding one year from the date of implementation of the provisions of these regulations.

Article (346)

Competent government agencies must take legal measures against establishments that violate the prohibition contained in the previous articles following applicable laws and regulations.

Article (347)

Excluded from the previous rules and provisions are endowment establishments founded before the implementation of the provisions contained in the endowment law and these regulations.

Article (348)

The administrators of existing endowments at the time the provisions of the endowment law come into effect must notify the competent administrative authority of the existence of the endowment, and provide this authority, within a period not exceeding six months from the date of implementation of these regulations, of the following available to them:

1. A copy of the endowment deed and any amendments made to it.
2. A statement of the endowed funds and copies of the ownership debentures for these funds.
3. Endowment investments.
4. A statement of the endowment's revenues, management expenses, and the proceeds spent to implement the endower's will and a statement of its distributions during the last three years.
5. The problems facing the endowment and the efforts made by the administrator to overcome them and address their causes.
6. An inventory of the cases in which the endowment is a party, and the rulings issued for or against the endowment.
7. Any other information related to the endowment.

Article (349)

The competent administrative authority may warn the endowment administrator if he does not take the initiative to submit the data and documents specified in Article (348) of these regulations. Within a period not exceeding one month starting from the warning date, the competent administrative authority must request the court to dismiss the administrator and oblige him to deliver the endowment documents to his successor as administrator.

Article (350)

Whoever wishes to establish an endowment or the endower has the right to appoint someone else, whether a natural or legal person, to act on his behalf in taking official procedures in the following matters:

1. Establishing an endowment.
2. Joining an existing endowment.
3. Amending the terms of the endowment in cases permitted by the law and these regulations.

Article (351)

In the cases mentioned in Article (350) of these regulations, it is required that this power of attorney be official, except the power of attorney of the competent administrative authority, in which case this power of attorney may be in front of an employee designated by this authority, approved by its supreme president, and stamped with its official seal.

Article (352)

The administrator of the endowment, and anyone who has information about cases of illegal seizure of property owned by the endowment, must notify the competent administrative authority of this information and provide it with the documents available to it regarding this property.

Article (353)

The competent administrative authority coordinates with the administrator of the endowment and the general union of endowments in taking measures to recover the endowed funds from those who have seized them, whether through legally available administrative methods or by resorting to the judiciary.

Article (354)

The competent administrative authority must coordinate with both the Regional Union of Endowments and the endowment administrator, in taking measures to document the evidence of the lost endowments and intensifying efforts to recover endowments that have been lost, extinct, or seized by others.

Article (355)

The competent administrative authority maintains the remainder of the endowment funds that have disappeared and has no administrator, while committing to submit a request to the competent court to appoint administrators for these endowments.

Article (356)

Every Muslim has the right to inform the competent administrative authority, at his personal responsibility, of everything related to Islamic endowments, such as misuse of them, violation of their rights, or spending of their funds in violation of Sharia and legal rules.

Article (357)

Any interested party may request from the administrator of the endowment data, information, or copies of documents relating to the endowment, its properties, its investment activities, the distribution of its returns, and any other matters related to the endowment.

Article (358)

The endowment administrator shall prepare a register that includes data on the applications submitted to him under Article (357) of these regulations, indicating the applicant's name, his information, his capacity in applying, and the date of its submission. This register also includes the value of the fees the applicant pays in exchange for executing his request, the date specified for his requested delivery, and evidence given to the applicant of the delivery of his request.

Article (359)

The value of the fees required to implement the request may not exceed the value of the actual administrative expenses. The applicant may appeal to the competent court the amount of the required fee.

Article (360)

The applicant has the right to resort to the judiciary if the application is rejected, or if some of it is accepted and some are rejected, or in case they refuse to process the application, or delay it beyond the specified date.

The competent court may, if the endowment administrator does not have adequate reasons, impose on him a fine not less than the amount of (...) and removal from the administration, or one of these two penalties.

Kuwait Awqaf Public Foundation – State of Kuwait

www.awqaf.org.kw

The Kuwait Awqaf Public Foundation aims to promote the culture of endowment (waqf); therefore, all its publications are not intended for sale.

Completed, praise be to Allah

The Project of the Guiding Law of Endowment

The Project proposes a model of endowment law which considers the religious and doctrinal diversity in Islamic countries. It also contributes to the development of the existing endowment legal legislation in these countries. In the light of this project, a draft of legal text was formulated, and its executive regulations and explanatory memorandum were developed. A hearing for the draft law was held (in Jeddah) to discuss the text of the law, its executive regulations, and its explanatory memorandum. Comments from the parties participating in the hearing were received. Subsequently, a trial version of the guiding law, its executive regulations, and its explanatory memorandum were issued in November 2014 and distributed to entities concerned with endowment affairs in the Islamic world. A decade after its first edition, ***Kuwait Awqaf Public Foundation*** released a revised and expanded second edition of the guiding law of endowments to address development needs and to incorporate the comments of relevant parties in the Islamic world.



Kuwait Awqaf Public Foundation

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