

Tamil Nadu Pachaiyappa's Trust and of The Public Trust and Endowments Specified in Schedule (Taking Over of Management) Act, 1981

TAMILNADU

India

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Act 2 of 1981

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Tamil Nadu Pachaiyappa's Trust and of The Public Trust and Endowments Specified in Schedule (Taking Over of Management) Act, 1981 (Tamil Nadu Act 2 of 1981) Statement of Objects and Reasons - Pachaiyappa's Trust (Taking over of Management) Act, 1981 (Tamil Nadu Act 11 of 1981). - The Board of Trustees of the Pachaiyappa's trust has been running several institutions, namely, colleges, schools, etc. In the recent past, a number of complaints had been received by the Government from the staff as well as from the public regarding the irregularities committed in the management of the charities and institution (including educational institutions) and properties under its control. It had also been brought to the notice of the Government that the present members of the Board of Trustees of the said trust have also committed irregularities in the management of the charities (including educational institutions) and properties under its control. Any delay in taking over the management of the Pachaiyappa's trust would highly be detrimental to the interests and objects of the said trust. It was, therefore, considered necessary that for a limited period the management of the Pachaiyappa's trust should be taken over by the Government in the public interest and in order to secure the proper management of the said trust. Accordingly, the Pachaiyappa's Trust (Taking over of Management) Ordinance, 1980 (Tamil Nadu Ordinance 14 of 1980) was promulgated by the Governor on the 22nd December 1980.² The Bill seeks to replace the above Ordinance. Published in Part II - Section 1, pages 91-92 of the Tamil Nadu Government Gazette Extraordinary, dated the 9th February 1981. Received the assent of the President on the 3rd March 1981 and first published in Part II - Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated the 3rd March 1981. An Act to provide for the taking over of the management of the Pachaiyappa's Trust and of the Public Trust and Endowments specified in the Schedule and for matters connected therewith Whereas It has been brought to the notice of the State Government that

the Board of Trustees of the Pachaiyappa's Trust [who are also trustees in respect of the Public Trust specified in the schedule] [Substituted by Pachaiyappa's Trust (Taking over of Management) Second Amendment Act, 1987 (Tamil Nadu Act 56 of 1987).] and also administration of the endowment specified in the schedule) has, for the past few years committed irregularities in the management of the charities and institutions, (including educational institutions) and properties [under the control of said Board of Trustees]] [Substituted by Pachaiyappa's Trust (Taking over of Management) Second Amendment Act, 1987(Tamil Nadu Act 56 of 1987).];And Whereas it has been brought to the notice of the State Government that the members of the present Board of Trustees of the Pachaiyappa's Trust [who are also trustees in respect of the Public Trust specified in the schedule] [Substituted by Pachaiyappa's Trust (Taking over of Management) Second Amendment Act, 1987 (Tamil Nadu Act 56 of 1987).] and also administration of the endowment specified in the schedule have also committed irregularities in the management of the charities (including educational institutions) and properties [under the control of the said Board of Trustees] [Substituted by Pachaiyappa's Trust (Taking over of Management) Second Amendment Act, 1987(Tamil Nadu Act 56 of 1987).];And Whereas it has been represented to the State Government that the continuance of the [management of the Pachaiyappa's Trust and of the Public Trust specified in the schedule] [Inserted by Pachaiyappa's Trust (Taking over of Management) Second Amendment Act, 1987 (Tamil Nadu Act 56 of 1987).] and also administration of the endowment specified in the schedule by the present Board of Trustees [who are also trustees in respect of the public trust specified in the schedule)]. [Inserted by Pachaiyappa's Trust (Taking over of Management) Second Amendment Act, 1987 (Tamil Nadu Act 56 of 1987).] and also administrator of the endowments specified in the schedule will not be proper in the public interest;And Whereas the State Government have after careful consideration taken a policy decision that for a limited period the management of the Pachaiyappa's Trust [and of the public trusts and endowments specified in the Schedule]] [Substituted or inserted by Pachaiyappa's Trust (Taking over of Management) Second Amendment Act, 1987 (Tamil Nadu Act 56 of 1987).] should be taken over by the State Government in the public interest and in order to secure the proper management of the Pachaiyappa's Trust [and of the Public Trusts and Endowment specified in the schedule)] [Substituted or inserted by Pachaiyappa's Trust (Taking over of Management) Second Amendment Act, 1987 (Tamil Nadu Act 56 of 1987).] (who are also trustees in respect of the public trusts specified in the Schedule) and also administrators of the endowments specified in the Schedule and that for this purpose the powers, duties and functions exercised and performed by the Board of Trustees should be exercised and performed by the Government either directly or through a Committee of management appointed by the Government;And Whereas any delay in taking over the management of the Pachaiyappa's [and of the Public Trusts and Endowments specified in the schedule)] [Substituted or inserted by Pachaiyappa's Trust (Taking over of Management) Second Amendment Act, 1987 (Tamil Nadu Act 56 of 1987).] Trust would highly be detrimental to the interests and objects of the [said trust and endowments]] [Substituted or inserted by Pachaiyappa's Trust (Taking over of Management) Second Amendment Act, 1987 (Tamil Nadu Act 56 of 1987).];Be it enacted by the Legislature of the State of Tamil Nadu in Thirty-second Year of the Republic of India as follows: -

1. Short title and commencement.

(1) This Act may be called the Pachaiyappa's Trust and of the Public Trust and Endowments Specified in Schedule (Taking over of Management) Act, 1981. (2) It shall be deemed to have come into force on the 22nd December 1980.

2. Definitions.

- In this Act, unless the context otherwise requires, - (a) "Board of Trustees" means the Board of Trustees mentioned in the scheme for the Pachaiyappa's Trust settled and approved by the High Court of Judicature at Madras on the 12th day of February 1909 as subsequently modified by the High Court [which Board of Trustees are also trustees in respect of the public trusts specified in the Schedule and also administrators of the endowments specified in the Schedule]; [Substituted or inserted by Pachaiyappa's Trust (Taking over of Management) Second Amendment Act, 1987 (Tamil Nadu Act 56 of 1987).] (b) "Government" means the State Government; (c) "Pachaiyappa's" Trust means the trust in respect of Pachaiyappa's charities (including educational institutions) and properties under its control, and governed by the scheme settled and approved by the High Court of Judicature at Chennai on the 12th day of February 1909 as subsequently modified by the High Court [and includes the Scheduled public trusts and endowments] [Substituted or inserted by Pachaiyappa's Trust (Taking over of Management) Second Amendment Act, 1987 (Tamil Nadu Act 56 of 1987).] (d) "Pachaiyappa's Trust scheme" means the scheme for the Pachaiyappa's Trust settled and approved by the High Court of Judicature at Chennai on the 12th day of February 1909 as subsequently modified by the High Court [and includes any scheme, deed of public trust or any will or deed of endowment or any order of Court or decree or any other instrument whatsoever creating or governing the Scheduled public trusts and endowments.] [Substituted or inserted by Pachaiyappa's Trust (Taking over of Management) Second Amendment Act, 1987 (Tamil Nadu Act 56 of 1987).]; (e) "Scheduled public trusts and endowments" means the public trusts and endowments specified in the Schedule to the Act and includes educational institutions, charities and properties under the control of the said public trusts and endowments.] [Substituted by Pachaiyappa's Trust (Taking over of Management) Amendment Act, 1981 (Tamil Nadu Act 66 of 1981).]

3. Vesting of management of Pachaiyappa's Trust.

(1) With effect on and from the date of the commencement of this, Act, the management of the Pachaiyappa's Trust in so far as it vests in the Board of Trustees under the Pachaiyappa's Trust scheme, shall vest in the Government for a period of years and accordingly the powers, duties and functions exercised and performed by the Board of Trustees shall for the said period be exercised and performed by the Government either directly or through a Committee of management appointed under sub-section (2). (2) The Committee of management referred to in sub-section (1) [shall consist of such number of officers of the Government not exceeding five, as the Government may, by notification, from time to time, appoint in this behalf.] [Substituted by Pachaiyappa's Trust (Taking over of Management) Amendment Act, 1981 (Tamil Nadu Act 66 of 1981).] (3) The Committee of management shall, on behalf of the Government, exercise the powers and perform the

duties and functions now exercised and performed by the Board of Trustees under the Pachaiyappa's Trust scheme.(4)The Government shall appoint one of the members of the Committee of management as Chairman.

4. Members of the Board of Trustees to cease to hold office.

(1)Notwithstanding anything contained in any other Act or in the Pachaiyappa's Trust scheme, every person who, on the date of the commencement of this Act, is a member of the Board of Trustees of the Pachaiyappa's Trust shall cease to hold office as member of such Board.(2)During the period for which the Committee of management is exercising the powers and performing the duties and functions exercised and performed by the Board of Trustees, no election under the Pachaiyappa's Trust scheme shall be held to fill up any vacancy in the Board of Trustees.

5. Taking over of properties, etc.

- The Government, or the Committee of management on behalf of the Government, shall take all steps as may be necessary, to efficiently manage and run the Pachaiyappa's Trust in accordance with - (i) any law applicable to such trust; and (ii) the Pachaiyappa's Trust scheme; in so far as such law or the scheme is not inconsistent with the Act and the rules made thereunder and to take into the custody or control of the Government all the property, effects and actionable claims to which the Pachaiyappa's Trust is or appears to be entitled, and all the property and effects of the Pachaiyappa's Trust shall be deemed to be in the custody of the Government on the date of the commencement of this Act: Provided that the Government or the Committee of management shall not be bound by any liability incurred by the Board of Trustees prior to the date of the commencement of this Act and no such liability shall be enforced by any court whether in execution of a decree or otherwise against the Government or the Committee of management: Provided further that in computing the period of limitation for a suit, or any application for the execution of the decree, the time during which such proceeding, attachment, injunction or order, the enforcement of which is barred under this section shall be excluded. Explanation. - For the purpose of this section, the expression "law" includes any bylaw, rule, regulation or any scheme, custom or usage.

6. Penalty for not handing over records and other properties of Pachaiyappa's Trust.

- Notwithstanding anything contained in any other law - (a) every trustee of the Board of Trustees or any person working under its control shall, on demand, hand over immediately and records and properties relating to the Pachaiyappa's Trust which are in, or have come into, his possession, or control to an officer authorised by the Government in this behalf; (b) if any trustee or any person working under the Board of Trustees fails to comply with the provisions of clause (a) he shall on conviction by a Metropolitan Magistrate or Judicial Magistrate of the first class be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both. [Provided that nothing contained in clause (b) shall, in so far as it relates to Scheduled public trusts and endowments, render any person liable to any punishment]

whatever by reason of his failure to comply with the provisions of clause (a) on or after the 22nd December 1980 and before the 2nd October 1987.] [Substituted or inserted by Pachaiyappa's Trust (Taking over of Management) Second Amendment Act, 1987 (Tamil Nadu Act 56 of 1987).]

7. Overriding effect of Act.

(1)The provisions of this Act shall have effect notwithstanding anything inconsistent therewith, contained in section 92 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908) or any other law for the time being in force or the Pachaiyappa's Trust scheme or any other scheme settled under any law for the time being in force.(2)If any provision contained in the Pachaiyappa's Trust scheme is repugnant to any provision contained in this Act or the rules made thereunder, the latter provision shall prevail, and the former provision shall, to the extent of repugnancy, be of no effect.(3)For the removal of doubts, it is hereby declared that the provisions of the Pachaiyappa's Trust scheme including the by-laws made thereunder except in so far as they relate to the matters dealt with by this Act, shall continue in force.

8. Reconstitution of Board of Trustees on the expiry of Act.

- Within two months before the expiry of the period of two years specified in sub-section (1) of sections 3, the Government shall take all steps to hold election for the Board of Trustees in accordance with the Pachaiyappa's Trust scheme so that the newly elected members may assume immediately after the expiry of the said period of years.

9. Bar of jurisdiction of Civil Court.

- No Civil Court shall have jurisdiction in respect of any order passed by the Government or by the Committee of management, as the case may be, and no stay or injunction shall be granted by a court in respect of any action taken or to be taken by the Government or the Committee of management, pursuance of any power conferred by or under this Act.

10. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government or the Chairman or any member of the Committee of management for anything which is in good faith done or intended to be done under this Act.

11. Construction of references to Board of Trustees.

- In the application of the Pachaiyappa's Trust scheme any reference to the Board of Trustees shall be construed, unless the context otherwise requires, as a reference to the Government or the Committee of management, as the case may be.

12. Relinquishment of management of Pachaiyappa's Trust.

- Notwithstanding anything contained in sub-section (1) of section 3, if at any time before the expiry of the period referred to in that sub-section, it appears to the Government that the purpose of the vesting in the Government of the management of the Pachaiyappa's trust has been fulfilled or that for any other reason it is not necessary that the management of the Pachaiyappa's trust should remain vested in the Government, they may, by order published in the Tamil Nadu Government Gazette, relinquish the management of the Pachaiyappa's trust with effect from such date as may be specified in the order: Provided that before making an order under this section, the Government shall take all steps to hold election for the Board of Trustees in accordance with the Pachaiyappa's Trust scheme so that the newly elected members may assume office with effect from the date specified in the order published in the Tamil Nadu Government Gazette.

13. No right to compensation for premature termination of office.

- Notwithstanding anything contained in any law for the time being in force, no person who ceases to hold office as member of the Board of Trustees by reason of the provisions contained in subsection (1) of section 4, shall be entitled to claim any compensation for the loss of his office.

14. Power to remove difficulties.

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may make such order not inconsistent with the provisions of this Act as may appear to them to be necessary or expedient for the purpose of removing the difficulty. (2) Every order made under this section shall, as soon as after it is made, be laid before each House of the Legislature.

15. Power to make rules.

(1) The Government may make rules to carry out the provisions of this Act. (2) All Rules made under this Act shall be published in the Tamil Nadu Government Gazette, and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published. (3) Every Rule made under this Act shall, as soon as possible, after it is made, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such Rule or both Houses agree that the Rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

16. Repeal and savings.

(1) The Pachaiyappa's Trust (Taking over of Management) Ordinance, 1980 (Tamil Nadu Ordinance 14 of 1980) is hereby repealed.

Schedule

[See clause (e) of section 2]

Sl. No.	Description of public trusts and endowments
(1)	(2)
1.	P.T. Lee Chengalvaroya Naicker's Public Trust (Will of Chengalvaroya Naicker, dated 4th October 1870 and his codicil, dated 30th April 1873).
2.	Govindu Naicker's Public Trust (Will of Govindu Naicker, dated 25th March 1846).
3.	Devalla Ramaswamiah's Endowment (Gift deed of Devalla Sundarammal, Wife of Devada Remaswamiah, dated 30th May 1904).
4.	Olati Ranganayakiarnma's Public Trust (Will of Olati Ranganayakiammal, dated 30th March 1904).
5.	Chellamma's Public Trust (Chellamma's Will, dated 22nd November 1913 and her subsequent Wills, dated 11th November 1915, 16th October, 1916 and 10th March 1917).
6.	C. Shanmugasundara Mudaliar's Public Trust (Decree of the High Court, Madras in C.S. No. 396 of 1912).
7.	P.K. Vidyasagaram's Public Trust (Will of P.K. Vidya Sagaram, dated 23rd July 1928).
8.	T.B. Venkatachalam Pillai Public Trust (Will Venkatachalam Pillai, dated 21st January, 1931).
9.	Oomapathi Pathar's Endowment (Will of Oomapathi Pathar, dated 31st July 1922).
10.	Gantasala Yesodammai Endowment (Count sale, dated 8th May, 1936).
11.	C. Srinivasa Rao's Public Trust (Will of Caravadi Srinivasa Rao, dated 20th November, 1908).
12.	E. Doraiswamy Mudaliar, Public Trust (Will of Doraiswamy Mudaliar; dated 7th June, 1942).
13.	Maragadammal Endowment (Will of Kamalambal alias Maragathammal, dated 7th May, 1922).
14.	Kamalavalli Thayarammal Endowment (Settlement deed dated 31st January 1945, executed by C. Veeraraghava Chetty, husband of Kamalavalli Thayarammal).
15.	Venkatavaratha Pillai Public Trust, (Settlement deed dated 22nd December 1954 executed by Vankatavaratha Pillai).
16.	Rajathiammal Public Trust (Settlement deed dated 11th July 1955 executed by Rajathiammal).
17.	Dhanakotiappa Endowment (Will of Dhanakotiappa, dated 25th February 1957).
18.	Venkatachala Mudaliar Public - Trust (Will of M. Venkatachala Mudaliar, dated 31st July, 1959).
19.	R.D. Saravanavelu Mudaliar Endowment (Will of R.D. Saravanavelu Mudaliar, dated 10th October 1937).