

The Jammu and Kashmir Charitable Endowments Act, 1989

JAMMU & KASHMIR

India

The Jammu and Kashmir Charitable Endowments Act, 1989

Act 14 of 1989

- Published on 28 September 1989
- Commenced on 28 September 1989
- [This is the version of this document from 28 September 1989.]
- [Note: The original publication document is not available and this content could not be verified.]

The Jammu and Kashmir Charitable Endowments Act, 1989 Act No. 14 of 1989 [Received the assent of the Governor on 28th September, 1989 and published in the Government Gazette dated 29th September, 1989.] An Act to provide for the vesting and administration of property held in trust for charitable purposes. Be it enacted by the Jammu and Kashmir State Legislature in the Fortieth Year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1) This Act may be called the Jammu and Kashmir Charitable Endowments Act, 1989. (2) It extends to the whole of the State of Jammu and Kashmir. (3) It shall be deemed to have come into force with effect from 7th September, 1988.

2. Definitions.

- In this, Act "Charitable purpose" means relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include a purpose which relates exclusively to religious teachings, religious places of worship.

3. Appointment and incorporation of Treasurer of Charitable Endowments.

(1) The Government may appoint an officer of the Government by the name of his office to be the Treasurer of any Charitable Endowment in the State. (2) Such Treasurer shall, for the purposes of taking, holding and transferring movable or immovable property under the authority of this Act be a corporation sole by the name of the Treasurer of Charitable Endowment and as such Treasurer shall have perpetual succession and a corporate seal, and may sue and be sued in his corporate name.

4. Orders vesting property in Treasurer.

(1)Where any property is held or is to be applied in trust for a charitable purpose, the Government, if it thinks fit may on application made as hereinafter mentioned, and subject to other provisions of this section, order by notification in the Government Gazette that the property be vested in the Treasurer of Charitable Endowment on such terms as to the application of the property or the income thereof as may be agreed to between the Government and the person or persons making the application and the property shall thereupon, so vest accordingly.(2)When any property has vested under this section in a Treasurer of Charitable Endowment, he is entitled to all documents of title relating thereto.(3)An order under this section vesting property in a Treasurer of Charitable Endowment shall not require or be deemed to require him to administer the property or impose or be deemed to impose upon him the duty of a trustee with respect to the administration thereof.

5. Schemes for administration of property vested in the Treasurer.

(1)On application made as hereinafter mentioned and with the concurrence of the person or persons making the application the Government, if it thinks fit may settle a scheme for the administration of any property which has been or is to be vested in the Treasurer of Charitable Endowments, and may in such scheme appoint, by name or office, a person or persons, not being or including such Treasurer, to administer the property.(2)On application made as hereinafter mentioned, and with the concurrence of the person or persons making the application, the Government may, if it thinks fit, modify any scheme settled under this section or substitute another scheme in its stead.(3)A scheme settled, modified or substituted under this section shall, subject to the other provisions of this section come into operation on a day to be appointed by the Government in this behalf, and shall remain in force so long as the property to which it relates continue to be vested in the Treasurer of Charitable Endowment or until it has been modified or another such scheme has been substituted in its stead.(4)Such a scheme, when it comes into operation, shall supersede any decree or direction relating to the subject matter thereof in so far as such decree or direction is in any way repugnant thereto, and its validity shall not be questioned in any Court, nor shall any Court give, in contravention of the provisions of the scheme or in any way contrary or in addition hereto a decree or direction regarding the administration of the property to which the scheme relates.(5)In the settlement of such a scheme effect shall be given to the wishes of the author of the trust.(6)Where a scheme has been settled under this section for the administration of the property not already vested in the Treasurer of Charitable Endowment, it shall not come into operation until the property has become so vested.

6. Mode of applying for vesting order and schemes.

(1)The application referred to in the two last foregoing sections must be made,-(a)if the property is already held in the trust for a charitable purpose, then by the person acting in the administration of the trust, or where there are more persons than one so acting then by those persons or majority of them; and(b)if the property is to be applied in trust for such a purpose then by the person or persons proposing so to apply it.(2)For the purpose of this section the executor or administrator of a deceased trustee of property held in trust for a charitable purpose shall be deemed to be a person

acting in the administration of the trust.

7. Scheme of administration of Property of certain other Charitable Trusts.

(1)The Government may suo moto for reasons to be recorded or on an application made by any person having an interest, by notification in the Government Gazette, settle a scheme for the administration of any property held in trust for a charitable purpose which has not vested in the Treasurer of Charitable Endowment under section 4 of this Act.(2)The Government may appoint date, whether retrospectively or prospectively, on which a scheme settled under this section shall become operative.(3)Such a scheme may provide for the following :-(a)powers and functions of the Treasurer with respect to such charitable trusts ;(b)appointment of Treasurer of Charitable Endowments as a trustee ;(c)removal of any existing trustee ;(d)appointment of new trustees ; and(e)appoint, by name or office, a person or persons to administer the property.(4)The Government may, suo moto or on an application made by any person having an interest, by notification in the Government Gazette, modify any scheme settled under this section or substitute another scheme in its stead.(5)Such a scheme, when it comes into operation shall supersede any decree or direction relating to the subject matter thereof in so far as such decree or direction is in any way repugnant thereto, and its validity shall not be questioned in any Court, nor shall any Court give in contravention of the provisions of the scheme or in any way contrary or in addition thereto a decree or direction regarding the administration of the property to which the scheme relates.(6)in the settlement of such a scheme effect shall be given to the wishes of the author of the trust.

8. Bare trusteeship of Treasurer.

(1)Subject to the provisions of this Act, a Treasurer of Charitable Endowment shall not as such Treasurer act in the administration of any trust whereof any of the property is for the time being vested in him under this Act.(2)Such Treasurer shall keep a separate account of each property for the time being so vested in so far as the property consists of securities for money, and shall apply the property or the income thereof in accordance with the provisions made in that behalf in the vesting order under section 4 or in the scheme, if any, under section 5 or in both those documents.(3)in the case of any property so vested other than securities for money such Treasurer shall, subject to any special order which he may receive from the authority by whose order the property became vested in him, permit the persons acting in the administration of the trust to have the possession, management and control of the property, and the application of the income thereof; as if the property had been vested in them.

9. Annual publication of list of property vested in Treasurer.

- A Treasurer of Charitable Endowment shall cause to be published annually in the Government Gazette at such time as the Government may direct a list of all properties for the time being vested in him under this Act, and an abstract of all accounts kept by him under sub-section (2) of the last foregoing section.

10. Limitation of functions and powers of Treasurer.

(1)A Treasurer of Charitable Endowment shall always be a sole trustee, and shall not, as such Treasurer take or hold any property otherwise than under the provisions of this Act, or subject to those provisions transfer any property vested in him except in obedience with a direction in that behalf issuing from the authority by whose order the property become vested in him.(2)Such a direction may require the Treasurer to sell or otherwise dispose of any property vested in him, and, with the sanction of the authority issuing the direction, to invest the proceeds of, the sale or other disposal of the property in any such security for money as is specified in the direction, or in the purchase of immovable property.(3)When a Treasurer of Charitable Endowment is divested, by a direction of the Government under this section, of any property it shall vest in the person or persons acting in the administration thereof and be held by him or them on the same trusts as those on which it was held by such Treasurer.

11. The powers to frame forms and make rules.

- The Government may make rules consistent with this Act for-(a)prescribing the fees to be paid to the Government in respect of any property vested under this Act, in a Treasurer of Charitable Endowment;(b)regulating the cases and the mode in which schemes or any modification thereof are to be published before they are settled or made under sections 5 and 7 ;(c)prescribing the forms in which accounts are to be kept by Treasurer of Charitable Endowment and the mode in which such accounts are to be audited ; and(d)generally carrying into effect the purposes of this Act.

12. Indemnity to Government and Treasurer.

- No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act, or in respect of any alleged neglect or omission to perform any duty dealing on the Government under this Act or in respect of, the exercise of the failure to exercise, any power conferred by this Act, on the Government, nor shall any suit be instituted against a Treasurer of Charitable Endowment except for divesting him of property on the ground of its not being subject to a trust for a charitable purpose, or for making him chargeable with or accountable for the loss or misapplication of any property vested in him, or the income thereof, where the loss or misapplication has been occasioned by or through his wilful neglect or default.

13. Repeal and saving.

(1)The Jammu and Kashmir Charitable Endowments Ordinance, 1989 is hereby repealed.(2)Notwithstanding such repeal anything done, any action-taken or any scheme framed under the said Ordinance shall be deemed to have been done, taken or framed under this Act.