



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

MAHANUWARA ESALA PERAHERA TRUST
ACT, No. 34 OF 1980

[Certified on 19th September, 1980]

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Mahanuwara Esala Perahera Trust
Act, No. 34 of 1980

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L. D.—O. 40/80.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A TRUST CALLED THE MAHANUWARA ESALA PERAHERA TRUST, FOR THE PURPOSE OF ASSISTING FINANCIALLY AND IN OTHER WAYS THE SRI DALADA MALIGAWA AND THE FOUR DEVALES OF KANDY TO CONDUCT THE ESALA PERAHERA; AND TO PROVIDE FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :

1. This Act may be cited as the Mahanuwarā Esala Perahera Trust Act, No. 34 of 1980.

Short title.

2. (1) There shall be established a Trust which shall be called "the Mahanuwarā Esala Perahera Trust" (hereinafter referred to as the Trust") for the purposes of achieving the objects specified in section 6.

Establishment of the Mahanuwarā Esala Perahera Trust.

(2) The Trust shall by the name assigned to it by subsection (1) be a body corporate and have perpetual succession and a common seal and may sue and be sued in such name.

3. (1) The Trust shall be administered by a Board of Managing Trustees (hereinafter referred to as the "Board"), consisting of the following members :—

The Board of Managing Trustees and meetings.

(a) the Diyawadana Nilame of the Sri Dalada Maligawa who shall be the Chairman of the Board ;

(b) the Government Agent of the administrative district of Kandy ; and

(c) the Basnayake Nilame of one of the four Devales of Kandy appointed by the President.

(2) The member appointed under paragraph (c) of subsection (1) shall hold office as a member of the Board only so long as he holds the office by virtue of which he was appointed :

Provided, however, that the President may at any time remove such member without assigning any reason therefor, and appoint another member in his place.

(3) The Chairman of the Board shall preside at the meetings of the Board, or in his absence the Government Agent of the administrative district of Kandy shall preside at such meetings.

(4) The Chairman or other member presiding at a meeting of the Board shall, in addition to his own vote, have a casting vote.

(5) The quorum for a meeting of the Board shall be two members.

(6) The Board may act notwithstanding any vacancy among its members.

(7) Notice of every meeting of the Board shall be sent by registered post to the Custodian Trustee referred to in section 4 who may attend such meeting but shall not be entitled to vote at such meeting.

Custodian
Trustee.

4. The Public Trustee appointed under section 2 of the Public Trustee Ordinance shall be the Custodian Trustee of the Trust.

The seal
of the
Trust.

5. (1) The seal of the Trust shall be in the custody of the Chairman of the Board and shall not be affixed to any instrument or document except with the sanction of the Board and in the presence of two members of the Board who shall sign such instrument or document in token of their presence.

(2) There shall be maintained a register in which particulars of any instrument or document on which the seal was affixed shall be entered.

The objects
of the
Trust.

6. The objects of the Trust shall be—

(a) to provide financial and other assistance to the Sri Dalada Maligawa and the four Devales of Kandy to conduct the annual Mahanuwarā Esala Perahera ;

(b) to encourage and promote the National Arts and Dances which enhance the artistic and cultural value of the annual Mahanuwarā Esala Perahera ;

(c) to provide financial assistance to artists and craftsmen whose services would tend to improve the cultural and artistic value of the annual Mahanuwarā Esala Perahera ;

(d) to engage in the production of articles to be utilized in the annual Mahanuwarā Esala Perahera ;

(e) to hold competitions and to award prizes, certificates and other forms of recognition to artists and dancers who take part in the annual Mahanuwarā Esala Perahera.

7. (1) The Board shall, in the name of the Trust, have the power to do all such things as are necessary for, or conducive or incidental to, the carrying out of the objects of the Trust.

Powers,
duties and
functions of
the Trust.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Board may exercise and discharge the following powers and functions:—

(a) to direct the Custodian Trustee to sell, mortgage, lease, grant, convey, devise, assign, exchange or otherwise dispose of any movable or immovable property belonging to the Trust:

Provided, however, where immovable property valued at over one hundred thousand rupees is to be sold, mortgaged, leased, or otherwise dealt with, the Board shall make an application to the District Court of Kandy together with two valuation reports from two independent valuers to obtain the sanction of such Court for such transaction. The Custodian Trustee shall be made a respondent to such application;

(b) to give grants, endowments or scholarships for the furtherance of the objects of the Trust;

(c) to enter into or perform, either directly or through officers and servants or agents authorized in writing in that behalf by the Board, all such contracts and agreements as may be necessary for the exercise, discharge and performance of its powers, functions and duties and in carrying out of the objects of the Trust;

(d) subject to the provisions of this Act, to appoint, employ and remunerate officers and servants of the Trust and to make rules regarding the appointment, promotion, remuneration and disciplinary control of its employees and the grant of leave and other benefits to them;

(e) to direct the Custodian Trustee to invest funds belonging to the Trust in any such investments as are authorized by the Trusts Ordinance or any other law relating to the investment of trust funds and to recall, reinvest and vary such investments;

(f) to make rules in relation to all matters connected with the administration of the Trust.

Advisory
Committee.

8. (1) There shall be an Advisory Committee consisting of the following:—

- (a) the Diyawadana Nilame of the Sri Dalada Maligawa;
- (b) the four Basnayake Nilames of the four Devalas of Kandy;
- (c) the Government Agent of the administrative district of Kandy; and
- (d) three members to be nominated by the President (hereinafter referred to as a "nominated member").

(2) The three nominated members shall hold office for a period of five years unless they earlier vacate office by death or resignation or are removed from office by the President.

(3) The President may at any time remove a nominated member without assigning any reason therefor and nominate another member in his place. A member so nominated shall hold office for the unexpired period of the term of office of the member whom he succeeds.

(4) The Diyawadana Nilame of the Sri Dalada Maligawa shall be the Chairman of the Advisory Committee and shall preside at the meetings of such Committee and in his absence any member elected by a majority of the members present at such meeting, shall preside at that meeting.

(5) The quorum for a meeting of the Advisory Committee shall be five members.

Board to
consult
Advisory
Committee
on certain
matters.

9. (1) The Board may, in the administration of the Trust, seek the assistance of the Advisory Committee referred to in section 8, and shall, in the exercise of its powers and the discharge of its functions under this Act, consult such Advisory Committee on such matters as the President may in writing direct.

(2) Where the Board is required to consult such Advisory Committee on any matter, such matter shall be decided at a meeting of such Advisory Committee by a majority of those present and voting:

Provided that when the Board is unable to agree with or abide by such decision it shall, within one month of such decision, make a report on such matter to the President whose decision thereon shall be final.

10. There shall be established a Fund of the Trust called the Mahanuwarā Esala Perahera Trust Fund (hereinafter referred to as the "Fund").

Establishment of Fund of the Trust.

11. (1) The Custodian Trustee shall, on behalf of the Trust, hold all the assets of the Fund both movable and immovable in his name as Custodian Trustee.

Powers, duties, and functions of the Custodian Trustee.

(2) All investments and recalling and reinvesting of investments shall be done by the Custodian Trustee on the directions of the Board.

(3) All sums payable to the Fund under paragraph (d) of section 12 shall be paid to the Custodian Trustee to be deposited in the Fund.

(4) The Custodian Trustee may allow the dividends and other income derived from the Fund to be paid to the Board or to such persons or into such bank to the credit of such persons as the Board may in writing direct and in such case he shall be exonerated from seeing to the application thereof, and shall not be answerable for any loss or misapplication thereof.

(5) The Custodian Trustee or any person authorized in writing in that behalf by him shall receive all grants, gifts and donations made to the Trust and issue receipts therefor.

(6) Subject to and without prejudice to the rights of any other persons, the Custodian Trustee shall have the custody of all securities and documents of title relating to the Trust property, but the Board shall have free access thereto and be entitled to take copies thereof or extracts therefrom.

(7) The Custodian Trustee shall concur in and perform all acts necessary to enable the Board to exercise its powers of management or any other power or discretion vested in them unless the matter in which he is required to concur in is a breach of trust, or involves a personal liability upon him in respect of calls or otherwise, but the Custodian Trustee shall not be liable for any act or default on the part of the Board.

12. There shall be paid into the Fund—

Payments into the Fund.

- (a) the initial payment made by the Government;
- (b) such sums as may from time to time be voted by Parliament;

- (c) any gifts or donations of money and the proceeds of sale of any gifts or donations in kind; and
- (d) such income from investments or other receipts due to the Trust as may be determined by the Board.
- Investment of moneys in Fund.** 13. Moneys lying to the credit of the Fund shall be invested in accordance with the provisions of the Trusts Ordinance or any other law relating to the investment of Trust moneys and shall not be utilized for any other purpose whatsoever.
- Trust deemed to be a charitable trust.** 14. The Trust shall be deemed to be a charitable trust within the meaning of the Inland Revenue Act, No. 28 of 1979.
- Exemption of Trust from certain duties and fees.** 15. (1) The Minister in charge of the subject of Finance may exempt the Trust from the payment of any customs duties on any goods imported by the Trust if the import of such goods is considered to be conducive for the advancement of the aims and objects of the Trust.
- (2) The Trust shall not be liable to pay any fees payable to the Public Trustee under the Public Trustee Rules made under section 52(1) of the Public Trustee Ordinance.
- Accounts and audit.** 16. (1) The Board shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Trust.
- (2) The Auditor-General shall audit the accounts of the Trust every year in accordance with Article 154 of the Constitution.
- (3) The Board shall annually prepare a report of the work of the Trust and forward such report to the Auditor-General who shall, together with his report, table such reports in Parliament and such reports shall be published in the Gazette for general information before the lapse of the year succeeding the year to which such report of the finances relate.
- Financial year of the Trust.** 17. The financial year of the Trust shall be the calendar year.

18. The moneys lying to the credit of the Trust, other than the sums paid into the Fund under section 12, shall be utilized for the following purposes :—

Expenses
of
the Trust.

- (a) all such payments necessary for the purpose of carrying out the objects of the Trust ;
- (b) expenses necessary for the administration, establishment and maintenance of the Trust ;
- (c) the payment of salaries to officers, servants and other employees ; and
- (d) all such other payments as are approved by the Board as being necessary for the purpose of carrying out the objects of the Trust.

19. (1) No person shall except under the authority of, and other than in accordance with the conditions set out in a licence issued by the Custodian Trustee or a person authorized by him in writing (hereinafter referred to as the "authorized officer"), provide for a fee or levy any facility for the purpose of viewing the annual Mahanuwara Esala Perahera. Such licence shall be issued upon application made in that behalf in the form provided for the purpose.

Issue of
licences.

(2) The Custodian Trustee or an authorized officer may call for such further particulars as may be necessary to determine whether a licence under subsection (1) should be issued or not to the person making an application under that subsection.

(3) The Custodian Trustee or an authorized officer may refuse to issue a licence if he is satisfied that—

- (a) the proposed fee or levy is excessive or unreasonable in the circumstances ;
- (b) the facilities to be provided are inadequate ; or
- (c) the precautions that will be taken to ensure the safety of the public are inadequate.

(4) The following conditions may be set out in the licence issued under subsection (1) :—

- (a) the maximum fee or levy to be charged ;
- (b) the facilities that are to be provided ;
- (c) the precautions that are to be taken to ensure the safety of the public.

**Offences and
Penalties.**

20. From and after the commencement of this Act, any person who—

- (a) without the prior written approval of the Custodian Trustee, receives or collects any contribution in money or kind for the purpose of conducting the annual Mahanuwarā Esala Perahera or for any matter connected therewith;
- (b) except under the authority of a licence issued by the Custodian Trustee or an authorized officer, provides for a fee or levy, any facility for the purpose of viewing the annual Mahanuwarā Esala Perahera;
- (c) acts in contravention of the conditions set out in the licence referred to in subsection (4) of section 19,

shall be guilty of an offence, and shall, on conviction by a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

**Protection of
members of
the Board
and officers
&c. of the
Trust for
action under
this Act.**

21. (1) No suit or prosecution shall be instituted against any member of the Board or against any officer, servant or agent of the Trust appointed for the purposes of this Act for any act which is in good faith done or purported to be done by such person under this Act or on the direction of the Board.

(2) Any expense incurred by the Trust in any suit or prosecution brought by or against the Trust before any court shall be paid out of the funds of the Trust and any costs paid to or recovered by the Trust in any such suit or prosecution shall be credited to the funds of the Trust.

(3) Any expense incurred by any such person as is referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Board shall, if the court holds that such act was done in good faith, be paid out of the funds of the Trust unless such expense is recovered by him in such suit or prosecution.

**No writ to
issue against
person or
property of
member of
the Trust.**

22. No writ against person or property shall be issued against any member of the Board or any officer or servant of the Trust in any action brought against the Trust.

23. All officers and servants of the Trust shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers and servants of the Trust deemed to be public servants under the Penal Code.

24. The Trust shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall accordingly apply.

Trust deemed to be scheduled institution within the meaning of the Bribery Act.

25. In this Act, unless the context otherwise requires, "the four Devales of Kandy" means—

Interpretation.

- (a) the Kandy Natha Devale ;
- (b) the Kandy Maha Vishnu Devale ;
- (c) the Kandy Kataragama Devale ; and
- (d) the Kandy Pattini Devale.