



PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

SIGIRIYA HERITAGE FOUNDATION ACT, No. 62 OF 1998

[Certified on 28th December, 1998]

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Sigiriya Heritage Foundation Act No. 62 of 1998

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L.D.—O. 82/96.

AN ACT TO ESTABLISH A FOUNDATION CALLED THE SIGIRIYA HERITAGE FOUNDATION TO PRESERVE AND PROMOTE THE CULTURAL AND ARCHAEOLOGICAL HERITAGE OF SIGIRIYA WORLD HERITAGE SITE AND ITS ENVIRONS ; AND TO PROVIDE FOR 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 Sigiriya Heritage Foundation Act, No. 62 of 1998. Short title.

PART I

ESTABLISHMENT OF THE SIGIRIYA HERITAGE FOUNDATION

2. (1) There shall be established a foundation which shall be called the Sigiriya Heritage Foundation (hereinafter referred to as the "Foundation"). Establishment of Sigiriya Heritage Foundation.

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

3. The objects of the Foundation shall be — Objects of the Foundation.

- (a) to promote the preservation, conservation, and development, of the cultural, archaeological and natural heritage of the Sigiriya World Heritage Site and its environs ;
- (b) to promote interest among the people of Sri Lanka and abroad, in Sigiriya and to educate the people on the conservation and preservation of the Sigiriya World Heritage Site and its environs ;
- (c) to provide access to, and facilities for, the appreciation of, the Sigiriya World Heritage Site and its environs ;

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- (d) to promote the general welfare of the people residing in the environs of the Sigiriya World Heritage Site, by the development of, education, accommodation, and medical facilities ;
- (e) to co-ordinate and collaborate with international professional organisations such as UNESCO, ICCORM, ICOMOS, ICOM AND IUCN ;
- (f) to organise and facilitate the holding of study courses, workshops and seminars to educate people about the Sigiriya World Heritage Site and its environs ;
- (g) to establish and maintain, educational institutions, museums, research centres, libraries and places providing information services, to facilitate the study of the cultural, archaeological and natural heritage of the Sigiriya World Heritage Site and it's environs ;
- (h) to undertake and to fund, research on various facets of the Sigiriya World Heritage Site and to publish the results of such research ;
- (i) to publish journals, books, pamphlets, and newsletters, with a view to promoting the objects of the Foundation ; and
- (j) to do such other acts or things as may be necessary for the attainment of all or any of the above objects of the Foundation.

Powers of the Foundation.

- 4. (1) The Foundation shall subject to the provisions of this Act, have the following powers :—**

- (a) to acquire and hold property, movable or immovable, which may become vested in it under this Act or by virtue of any purchase, grant, gift, testamentary disposition or otherwise, and subject to any trust attaching to such property, to sell, mortgage, lease, exchange or otherwise dispose of the same :

Provided however that no immovable property of the Foundation shall be sold without the prior written approval of the Minister ;

- (b) to enter into and perform, all such contracts as may be necessary for carrying out the objects of the Foundation ;
- (c) to levy such charges as the Foundation may from time to time determine, in consultation with the Central Cultural Fund, for the admission of the visitors to the property of the Foundation or any part thereof or for the use by such visitors, of any such property ;
- (d) to receive or collect, gifts, grants or donations, in cash or kind from persons or organisations for the development of Sigiriya World Heritage Site and its environs ;
- (e) to establish, maintain, and develop, places for religious observances and places of accommodation and public amenities in the Sigiriya World Heritage Site and its environs, subject to the directions of Department of Archaeology, the Urban Development Authority, local authorities and of the Ceylon Tourist Board ;
- (f) to make, draw, accept, endorse, negotiate, buy, sell and issue bills of exchange, cheques, promissory notes and other negotiable instruments and to open and maintain, current, savings, and deposit accounts in any bank or banks ;
- (g) to borrow, with or without security, moneys necessary for carrying out its objects ;
- (h) to invest any moneys belonging to the Foundation including any unapplied income, in any security which under the provisions of section 20 of the Trusts Ordinance (Chapter 87), or of any other written law, it is lawful to invest trust moneys, or to invest any

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such moneys in the purchase of immovable property in Sri Lanka, or vary such investment or place in fixed deposits in any bank, any portion of such moneys not required for immediate expenditure ; and

- (i) to appoint professional and other staff on such schemes of recruitment as may be determined by the Board of Management established under section 6.

Constitution of the Foundation.

5. The Foundation shall consist of the following :—

(a) *ex- officio* members namely—

(i) the Secretary to the Ministry of the Minister incharge of the subject of Cultural Affairs or any other person nominated by him in writing;

(ii) the Secretary to the Ministry of the Minister incharge of the subject of Tourism or any other person nominated by him in writing;

(iii) the Director General of Archaeology;

(iv) the Director General of the Central Cultural Fund;

(v) the Director of the Postgraduate Institute of Archaeology;

(vi) the Chairman of the Urban Development Authority or any other person nominated by him in writing;

(vii) the District Secretary appointed for the Administrative District of Matale or any other person nominated by him in writing;

(viii) the Chief Secretary of the Central Province or any other person nominated by him in writing;

(ix) the Chief Administrative Officer appointed under section 9;

(b) other members namely—

- (i) two members appointed by the Minister (hereinafter referred to "as the appointed members") from among persons who have distinguished themselves in the field of archaeology;
- (ii) two members elected by the *ex-officio* members referred to in paragraph (a), from among persons who have shown interest in the field of archaeology (hereinafter referred to as "elected members");
- (iii) the institutional members who have subscribed one million rupees each to the fund of the Foundation and who have undertaken to further the objects of the Foundation; and
- (iv) ordinary members and a life members who have obtained their membership of the Foundation in accordance with rules made under this Act.

(c) At least one member appointed or elected under subparagraphs (i) and (ii) of paragraph (b) of this section shall be from the administrative District of Matale.

6. (1) The administration, management and control of the affairs of the Foundation shall be vested in the Board of Management of the Foundation (hereinafter referred to as the "Board").

(2) The Board shall for the purpose of administering the affairs of the Foundation exercise, discharge and perform the powers, functions and duties conferred, or imposed on, or assigned to, the Foundation by this Act.

(3) It shall be the duty of the Board to prepare in accordance with rules made in that behalf, the annual programme and plan of work and the annual budget and submit such plan, programme, and the annual budget for the approval by the Minister.

Administration of
the Foundation.

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Constitution of
the Board.

7. (1) The Board shall consist of the following:—

(a) the *ex-officio* members of the Foundation referred to in paragraph (a) of section 5;

(b) other members, namely—

(i) the two appointed members of the Foundation referred to in sub-paragraph (i) of paragraph (b) of section 5;

(ii) the two elected members of the Foundation referred to in sub-paragraph (ii) of paragraph (b) of section 5;

(iii) one life member of the Foundation elected by the life members of the Foundation from among themselves;

(iv) one ordinary member of the Foundation elected by the ordinary members of the Foundation from among themselves;

(v) eight institutional members of the Foundation elected by the *ex-officio* members of the Foundation from among the Institutional members of the Foundation.

(2) A person shall be disqualified from being appointed or from continuing as a member of the Board, if he is or becomes, a member of Parliament, a member of a Provincial Council or a member of a local authority.

(3) The Board shall have the power to make rules regulating the procedure relating to its meetings and the transaction of business at such meetings.

(4) The Board shall hold at least two meetings a year.

(5) (a) The members of the Board shall elect from among themselves three members to be Chairman, Vice Chairman and Secretary, respectively, of the Board.

(b) Notwithstanding anything in paragraph (a) the first Chairman of the Board shall be the Director General of Archaeology.

(c) The First Chairman appointed under paragraph (b) shall hold office for a period of five years calculated from the date of commencement of this Act.

(d) Where the Chairman or Vice Chairman is by reason of illness or other infirmity or absence from Sri Lanka temporarily unable to perform the duties of his office, the members of the Board may elect another member of the Board in his place.

(e) The Chairman, (other than the first *Ex-officio* Chairman, appointed under paragraph (b) or the Vice Chairman may resign from their respective offices by letter addressed to the Board.

(f) Subject to the provisions of paragraph (b), (c), (d) and (e) the terms of office of Chairman and Vice Chairman shall be their respective periods of membership of the Board.

(6) A member of the Board elected under subparagraph (iii) or (iv) or (v) of paragraph (b) of subsection (1) of this section may resign from office by letter in that behalf addressed to the Board.

(7) A member of the Board elected under sub-paragraph (iii) or (iv) or (v) of paragraph (b) of subsection (1) of this section may be removed from office by the body of persons electing such member.

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(8) Subject to the provisions of subsections (6) and (7), the term of office of a member elected under sub-paragraph (iii) or (iv) or (v) of paragraph (b) of subsection (1) of this section shall be three years.

(9) Where any member of the Board elected under subparagraph (iii) or (iv) or (v) of paragraph (b) of subsection (1) of this section dies or resigns or is removed from office, the body of persons electing such member may elect another person to be a member in place of the member who dies, resigns or is removed from office.

(10) Where any member of the Board elected under subparagraph (iii) or (iv) or (v) of paragraph (b) of subsection (1) of this section is by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the body of persons electing such member may elect another person to act in his place.

(11) A member elected under subsection (9) or (10) shall, unless he earlier resigns or vacates his office by death or removal, hold office for the unexpired part of the term of office of the member whom he succeeds.

(12) Any member of the Board elected under subparagraph (iii) or (iv) or (v) of paragraph (b) of subsection (1) of this section who vacates his office shall be eligible for re-election, unless he has been removed from office.

(13) Every *ex-officio* member of the Board shall hold office as long as he holds the post by virtue of which he is a member of the Board.

(14) No act or proceeding of the Board shall be deemed to be invalid by reason of any vacancy in the membership of the Board or any defect in the appointment or election of any member thereof.

(15) The Chairman or in his absence the Vice-Chairman shall preside at meetings of the Board. In the absence of both the Chairman and the Vice - Chairman from any meeting of the Board a member elected by the members present shall preside at such meeting.

(16) All questions for decision at any meeting of the Board shall be decided by the vote of a majority of the members present. In the case of an equality of votes, the Chairman or any other member presiding at any meeting of the Board shall in addition to his own vote, have a casting vote.

8. The seal of the Foundation—

Seal of the Foundation.

- (a) shall be in the custody of such persons as the Board may determine from time to time ;
- (b) may be altered in such manner as may be determined by the Board ; and
- (c) shall not be affixed to any instrument or document without the sanction of the Board and in the presence of the Administrative Officer appointed under section 9 and a member of the Board who shall sign the document in token of their presence.

PART II

APPOINTMENT OF THE CHIEF ADMINISTRATIVE OFFICER AND STAFF OF THE FOUNDATION

9. (1) The Board may appoint a person to the staff of the Foundation to be Chief Administrative Officer (hereinafter referred to as "the Administrative Officer") who shall be the principal Administrative Officer of the Foundation and who shall be a full-time officer of the Foundation. The Administrative Officer shall be employed on such terms and conditions as shall be determined by the Board.

Appointment of the Chief Administrative Officer of the Foundation.

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(2) If any vacancy occurs in the office of the Administrative Officer appointed under subsection (1) or if the administrative officer by reason of illness, leave or infirmity is temporarily unable to perform the duties of his office, the Board shall make such arrangement as it may think fit for the carrying on the duties of the office.

(3) The Administrative Officer shall, subject to be direction of the Board, be charged with the administration of the affairs, and the control of the staff, of the Foundation. He shall also be responsible for the execution of all decisions of the Board.

(4) The administrative Officer shall be entitled to the present, and speak, at any meeting of the Board or any committee thereof.

(5) The Board may remove the Administrative Officer from office—

(a) if he becomes permanently incapable of performing his duties ; or

(b) if he has done any act or thing which in the opinion of the Board is of a fraudulent or illegal character or is prejudicial to the interests of the Foundation ; or

(c) if he acts contrary to the directions of the Board.

(6) The office of the Administrative Officer shall become vacant upon the death, removal from office under subsection (5) or resignation by letter in that behalf addressed to the Board, by the holder of that office.

Officers and servants of the Foundation.

10. (1) Subject to the provisions of this Act and any rules made thereunder, the Board shall have the power to appoint the officers and servants of the Foundation.

(2) Every appointment of the officers and servants of the Foundation shall be made by the Board in accordance with the schemes of recruitment and procedure for appointment, prescribed by rules.

(3) Subject to the provisions of this Act and any rules made thereunder, the Board shall determine the terms and conditions of services of the officers and servants of the Foundation including their wages, salaries and other remuneration.

(4) The officers and servants of the Foundation shall be subject to the disciplinary control, including power of dismissal, of the Board. The Board may make rules in regard to matters of discipline.

(5) The Board may establish and regulate provident funds and schemes for the benefit of the officers and servants of the Foundation and may make contributions to any such fund or scheme.

11. Where the Foundation employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period any period of service to the Foundation by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

Service to the Foundation deemed to be service to the Government for the purpose of certain contracts.

12. (1) At the request of the Board, any officer in the public service serving in any institution or Department coming under the Ministry of the Minister may, with the consent of the Secretary to the Ministry of the Minister given with the concurrence of the Secretary to the Ministry of Minister in charge of the subject of Public Administration, and of that officer, be temporarily appointed to the staff of the Foundation for such period as may be determined by the Board with like consent or with like consent be permanently appointed to the staff of the Foundation.

Appointment of public officers to the staff of the Foundation.

(2) At the request of the Board, any officer in the public service other than an officer referred to in subsection (1) may, with the consent of that officer and of the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Foundation for such period as may be determined by the Board with like consent or with like consent be permanently appointed to the staff of the Foundation.

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- (3) Where any officer in the public service is temporarily appointed to the staff of the Foundation, the provisions of section 14(2) of the National Transport Commission Act, No. 37 of 1991 shall, *mutatis mutandis*, apply to, and in relation to, him.
- (4) Where any officer in the public service is permanently appointed to the staff of the Foundation, the provisions of section 14(3) of the National Transport Commission Act, No. 37 of 1991 shall, *mutatis mutandis*, apply to, and in relation to, him.
- (5) At the request of the Board, any officer or servant of any Higher Educational Institution established under the Universities Act, No. 16 of 1978, may, with the consent of that officer or servant, the University Grants Commission and the principal executive officer of that Higher Educational Institution, be temporarily appointed to the staff of the Foundation for such period as may be determined by the Board with like consent, or with like consent be permanently appointed to the staff of the Foundation.

(6) In this section, the expressions "Higher Educational Institution" and "principal executive officer" have the same meanings as in the Universities Act, No. 16 of 1978; and the "University Grants Commission" means the University Grants Commission established by the Universities Act, No. 16 of 1978.

PART III

FINANCE

Fund of the
Foundation.

13. (1) The Foundation shall have its own fund (hereinafter called and referred to as the "Fund").
- (2) There shall be credited to the Fund —
- (a) all such sums of money as may be received by the Foundation in the exercise, discharge and performance of its powers, functions and duties under this Act; and

- (b) all such sums of money as may be received by the Foundation, by way of loans, donations, gifts or grants from any source, whether in Sri Lanka or abroad;
- (c) all such sums of money as may be voted from time to time by Parliament to meet the annual maintenance cost of the Sigiriya World Heritage Site;
- (d) all such sums of money transferred to the Fund by the Central Cultural Fund and consisting of —
 - (i) the entire income derived by the Central Cultural Fund from the levy of charges from local visitors for admission to the Sigiriya World Heritage Site;
 - (ii) twenty-five *per-centum* of the income derived by the Central Cultural Fund, for the period commencing on the date of Commencement of this Act and ending on the last day of the fifth year calculated from the date of commencement of this Act, from the levy of charges from tourists for admission to the Sigiriya World Heritage Site;
 - (iii) thirty-five *per-centum* of the income derived by the Central Cultural Fund, during the period of five years commencing of the first day of the sixth year calculated from the date of commencement of this Act and ending on the last day of the tenth year calculated from the date of commencement of this Act, from the levy of charges from tourists for admission to the Sigiriya World Heritage Site; and
 - (iv) fifty *per-centum* of the income derived by the Central Cultural Fund for any period after the end of the tenth year calculated from the date of commencement of this Act, from the levy of charges from tourists for admission to the Sigiriya World Heritage Site.

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(4) There shall be paid out of the Fund of the Foundation:—

- (a) all such sums of money as are required to defray any expenditure incurred by the Foundation in the exercise, discharge and performance of its powers, duties and functions under this Act ; and
- (b) all such sums of money as are required to be paid out of such Fund, by or under, this Act.

Amendment to
Central Cultural
Fund Act, No. 57
of 1980.

The Board to
cause proper
books of accounts
to be kept.

Minister to
exempt the
Foundation from
payment of Tax.

14. Notwithstanding anything to the contrary in section 6 of the Central Cultural Fund Act, No. 57 of 1980 the income derived by the Central Cultural Fund from the levy of charges from visitors and tourists to the Sigiriya World Heritage Site shall in terms of paragraph (d) of subsection (2) of section 13, be paid to the Fund.

15. (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 Foundation.

(2) Article 154 of the Constitution shall apply to the audit of the accounts of the Foundation.

(3) The financial year of the Foundation shall be the calendar year.

16. (1) The Minister may with the concurrence of the Minister in charge of the subject of Finance, exempt the Foundation from payment of any customs duty on any goods imported by the Foundation if the import of such goods is considered to be conducive to the advancement of the objects of the Foundation.

(2) The Foundation shall be exempt from any income tax under the Inland Revenue Act, No. 28 of 1979.

(3) A donation made in money or otherwise by any person to the Foundation shall be deemed, for the purposes of paragraph (b) of subsection (2) of section 31 of the Inland Revenue Act, No. 28 of 1979, to be a donation made in money or otherwise to a Fund established by the Government.

(4) The Foundation shall be exempt from payment of any entertainment tax imposed under the Entertainment Tax Ordinance.

PART IV

GENERAL

17. The Minister may from time to time give such general or special directions in writing to the Board as to the exercise of the powers, and the discharge of the functions of the Foundation.

Powers of Minister in relation to the Board.

18. (1) The Minister may by Order published in the Gazette, transfer to the Foundation such movable or immovable property of the Ministry of the Minister as is required for the purposes of the Foundation and any property so transferred shall, with effect from the date of the Order vest in, and become the property of, the Foundation.

State property both movable and immovable to be made available to the Foundation.

(2) Any state land may, subject to such conditions as may be determined by the Minister with the concurrence of the Minister for the time being in charge of the subject of state lands, be made available for the use of, or be alienated to, the Foundation for any purpose of the Foundation.

(3) Where any movable property of the State is required for the purpose of the Foundation, the Minister may, by Order published in the Gazette, transfer to, and vest in, the Foundation, the possession and use of such movable property:

Provided however, that no Order affecting any movable property, of the State shall be made by the Minister under the preceding provisions of this subsection, without the concurrence of the Minister in charge of the subject of such property.

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Board's report to be placed before Parliament.

Foundation deemed to be a Scheduled Institution within the meaning of the Bribery Act.

Members of the Board and officers and servants of the Foundation deemed to be public servants.

Protection of action taken under this Act.

19. The Board shall, within a period of six months after the closure of each financial year submit a report giving a full account of the activites of the Foundation during that year to the Minister who shall cause such report to be placed before Parliament, prior to the end of the year next following the year to which such report relate.

20. The Foundation shall be deemed to be a Scheduled Institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

21. All members, of the Board and officers and servants of the Foundation shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

22. (1) No suit or prosecution shall lie against any member of the Board, officer or servant of the Foundation for any act which in good faith is done or purported to be done by him under this Act, or on the direction of the Board.

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

(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 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 Fund of the Foundation, unless such expense is recovered by him in such suit or prosecution.

23. (1) Subject to the provisions of this Act, the Board may make rules for, and in respect of, all or any of the following matters :—
- (a) the terms and conditions of service, including remuneration, of the officers and servants of the Foundation ;
 - (b) the schemes of recruitment and procedures for appointment, of the officers and servants of the Foundation ;
 - (c) the annual programme and plan of work, the annual budget, the annual report and accounts of the Foundation and the manner in which such programme and plan of work budget, report and accounts are to be prepared ; and
 - (d) the manner in which ordinary and the life members of the Foundation are to be enrolled ;
 - (e) such other matters required by this Act to be presented or in respect of which rules are authorised by this Act to be made.
24. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.
25. In this Act, unless the context otherwise requires—
- “Central Cultural Fund” means the Central Cultural Fund established by the Central Cultural Fund Act, No. 57 of 1980 ;
- “Ceylon Tourist Board” means the Ceylon Tourist Board established by the Ceylon Tourist Board Act, No. 10 of 1966 ;
- “ICCROM” means the International Centre for the study of Preservation and Restoration of Cultural Property, Rome ;
- Rules.
- Sinhala text to prevail in case of inconsistency.
- Interpretation.

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"ICOMOS" means the International Council on Monuments and Sites ;

"ICOM" means the International Council of Museums ;

"Institutional Member" means a person or institution who has contributed one million rupees as a lump sum to the Fund of the Foundation ;

"IUCN" means the International Union for the Conservation of Nature ;

"local authority" means any Municipal Council, Urban Council or Pradeshiya Sabha and includes any authority created or established by or under any law to exercise, perform and discharge, powers, duties and functions corresponding or similar to, the powers, duties and functions exercised, performed and discharged by any such Council or Sabha ;

"Provincial Council" means a provincial Council established by Chapter XVII A of the Constitution ;

"Sigiriya World Heritage Site" means the area declared to be an archaeological reserve by Notification made under section 33 of the Antiquities Ordinance and published in Gazette No. 10,370 of March 21, 1952 and the area declared as a development area by Order made under section 3 of Urban Development Authority Act, No. 41 of 1978 and published in Gazette No. 542/10 of January 27, 1998;

"UNESCO" means the United Nations Education, Scientific and Cultural Organisation;

"Urban Development Authority" means the Urban Development Authority established by the Urban Development Authority Law, No. 41 Of 1978.

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