



PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

SAUMYAMOORTHY THONDAMAN MEMORIAL FOUNDATION ACT, No. 19 OF 2005

[Certified on 15th June, 2005]

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*Saumyamoorthi Thondaman Memorial Foundation
Act, No. 19 of 2005*

[Certified on 15th June, 2005]

L.D.—O. 52/2004.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A FOUNDATION CALLED THE SAUMYAMOORTHI THONDAMAN MEMORIAL FOUNDATION; TO SPECIFY ITS OBJECTS AND POWERS; 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 Saumyamoorthi Thondaman Memorial Foundation Act, No. 19 of 2005 Short title.

PART I

**ESTABLISHMENT OF THE SAUMYAMOORTHI THONDAMAN
MEMORIAL FOUNDATION**

2. (1) There shall be established a Foundation, in order to perpetuate the memory of the late Mr. Saumyamoorthi Thondaman to be called “The Saumyamoorthi Thondaman Memorial Foundation”, (hereinafter referred to as “the Foundation”). Establishment of the Saumyamoorthi Thondaman Memorial Foundation.

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

3. (1) The Foundation shall be administered by a Board of Management, (hereinafter referred to as the “Board”) consisting of :— Board of Management of the Foundation.

- (a) the Minister in charge of the subject of Plantation Infrastructure ;
- (b) the Leader of the Opposition ;
- (c) Mr. Arumugam Thondaman during his life time, and thereafter the eldest surviving descendent of the late Mr. Saumyamoorthi Thondaman:

Provided however that if Mr. Arumugam Thondaman becomes for any period an *ex-officio* member of the Board, the eldest surviving descendent of the late Mr. Saumyamoorthi Thondaman shall during such period serve as a member of the Board :

Provided further that in the event of the eldest surviving descendent being unwilling or unable to serve as a member of the Board the next eldest surviving descendent shall serve as a member of the Board ;

- (d) the Secretary to the Ministry of the Minister in charge of the subject of Finance or his representative;
- (e) the Secretary to the Ministry of the Minister in charge of the subject of Plantation Infrastructure or his representative ;
- (f) the General Secretary of the Ceylon Workers Congress or his representative ;
- (g) two persons appointed by Mr. Arumugam Thondaman during his lifetime and thereafter by the Board, from among persons of recognized competence or eminence, dedicated and committed to upgrading the living conditions, cultural and social development of the community.

(2) (a) A member appointed under paragraph (g) of subsection (1) may resign from office by a letter in that behalf addressed to the Board.

(b) A member appointed under paragraph (g) of subsection (1) may, for reasons assigned, be removed from office at any time by the Board.

(c) Subject to the provisions of paragraphs (a) and (b) the term of office of a member appointed under paragraph (g) of subsection (1) shall be three years from the date of his appointment.

(d) A member appointed under paragraph (g) of subsection (1), who vacates office by effluxion of time, shall be eligible for re-appointment.

(3) A member referred to in paragraph (a), (b), (d) and (e) of subsection (1) shall hold office so long as such member holds the office by virtue of which he is a member of the Board.

(4) The Chairman of the Board shall be the Minister and in the absence of the Minister from any meeting of the Board, the members present at such meeting shall elect from among themselves a Chairman for that meeting.

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

(6) Subject to the provisions of subsection (5), the Board may regulate the procedure in regard to the meetings of the Board and the transaction of business at such meetings.

(7) The Board may act notwithstanding a any vacancy among its members or any defect in the appointment of any member thereof.

4. The Seal of the Foundation —

The Seal of the
Foundation.

- (a) shall be in the custody of such person as the Board may from time to time determine ;
- (b) may be altered in such manner as may be determined by the Board ;
- (c) shall not be affixed to any document except with the sanction of the Board and in the presence of two members of the Board who shall sign the document in token of their presence.

5. The objects of the Foundation shall be —

The objects of
the Foundation.

- (a) to promote peace, goodwill, understanding and co-operation among all Sri Lankan communities ;

- (b) to promote and encourage inter - communal harmony and social integration ;
- (c) to promote the religious, educational, vocational, social, political, economic, aesthetic and physical development of Sri Lankans ;
- (d) to enhance the knowledge and understanding of Sri Lankans in the economic, political, educational, cultural, social and aesthetic fields ;
- (e) to improve the living conditions of any persons, who are economically and socially disadvantaged, including any improvement to their shelters and the provision of other infrastructure facilities ;
- (f) to encourage Sri Lankans to invest in appropriate banks and financial institutions ;
- (g) to establish relations with local and foreign institutions which have similar objectives as those of the Foundation ;
- (h) to provide financial or other assistance to any person engaged in any activity which is similar to any of the objectives of the Foundation ;
- (i) to organize seminars, workshops and training programmes in Sri Lanka and abroad on economic, political, educational, cultural and social fields ;
- (j) to organize programmes for creating awareness among the Sri Lankans on the human rights, duties and access to justice ;
- (k) to provide adequate facilities for the improvement of sports and recreation capabilities of Sri Lankans ;
- (l) to maintain and utilize the “Thondaman Cultural Centre at Ramboda, the Thondaman Sports Complex at Norwood and the Thondaman Vocational Training

Centre at Hatton” in order to secure the objects of the Foundation and for any other purpose which the Board may consider fit :

Provided however, that the Thondaman Cultural Centre at Ramboda, Thondaman Sports Complex at Norwood and Thondaman Vocational Training Centre at Hatton shall not be used for any political purpose ; and

- (m) to do all such other acts as may be necessary or conducive for the attainment of any or all of the above objects.

6. The Board shall in the name of the Foundation have the power —

Powers and functions of the Foundation.

- (a) to receive grants, gifts or donations in cash or kind ;
- (b) to take or hold any property movable or immovable by way of purchase, grant, gift, testamentary disposition or otherwise, and to sell, mortgage, lease, rent, grant, convey, devise, assign, exchange or otherwise dispose the same ;
- (c) to give grants, endowments or scholarships for economic, educational, cultural, social, aesthetic and sports development and vocational development purposes ;
- (d) to obtain loans on such terms and conditions as may be approved by the Board for the purpose of carrying out the objects of the Foundation ;
- (e) to enter into or perform either directly or through officers and servants or agents of the Foundation authorized in writing in that behalf, all such contracts and agreements as may be necessary for the exercise, performance and discharge of the powers duties and functions and carrying out the objectives of the Foundation ;
- (f) to charge fees for any services or facilities provided by the Foundation ;

- (g) subject to the provisions of this Act, to appoint and employ officers and servants as may be necessary for the carrying out of the objects of the Foundation and remunerate them and to dismiss and exercise disciplinary control over them ;
- (h) to manage and maintain the Thondaman Cultural Centre at Ramboda, Thondaman Sports Complex at Norwood and Thondaman Vocational Training Centre at Hatton and to levy charges for the use of, or for the public viewing of such Centres or any part thereof ;
- (i) to invest funds belonging to the Foundation at the discretion of the Board in any such investments as are authorized by law for the investment of such money, and to recall, re-invest, and vary such investment, and to collect the income accruing from such investments ;
- (j) to appoint committees to assist the Foundation in performance of its functions and achievement of its objectives ; and
- (k) to do all things as are necessary for or conducive or incidental to the carrying out of the objectives of the Foundation.

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

7. Where the Foundation employs any person who has entered into a contract with 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 under such contract.

Staff of the Foundation.

8. (1) The Board may appoint to the staff of the Foundation such officers and servants as may be necessary for the efficient discharge of its functions, on such terms and conditions as may be determined by the Board from time to time.

(2) At the request of the Board, any public officer may, with the consent of that officer and 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 be permanently appointed to such staff.

(3) Where any public officer is temporarily appointed to the staff of the Foundation, the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991 shall *mutatis mutandis* apply to, and in relation to, him.

(4) Where any public officer is permanently appointed to the staff of the Foundation, the provisions of subsection (3) of section 14 of the National Transport Commission Act, No. 37 of 1991 *mutatis mutandis*, apply to, and in relation, to him.

9. Where any immovable property of the State is required for any purpose of the Foundation to be such property shall be deemed to be a purpose for which a special grant or lease may be made under section 6 of the Crown Lands Ordinance (Chapter 454) and accordingly the provisions of that Ordinance shall apply to a special grant or lease of such property to the Foundation.

State property
immovable,
made available
to the
Foundation.

PART II

FINANCE

10. (1) There shall be established a Fund called “The Saumyamoorthi Thondaman Memorial Foundation Fund”. (hereinafter in this Act referred to as the “Fund”).

Fund of the
Foundation.

(2) A sum of rupees two hundred and seventy two million, provided out of the Consolidated Fund of Sri Lanka, already expended for the construction of the Thondaman Cultural Centre at Ramboda, Thondaman Sports Complex at Norwood and Thondaman Vocational Training Centre at Hatton, shall be the initial capital of the foundation.

(3) There shall be paid into the Fund —

- (a) all such sums of money as may be received by the Foundation in the exercise, performance and discharge and of its powers, duties and functions under this Act ;
- (b) all such sums of money as may be received by the foundation, by way of donations, gifts or grants, from any source whether in Sri Lanka or abroad ;
- (c) any income, derived from the levy of fees for any services or facilities provided by the Foundation ;
- (d) any income derived from the levy of charges for the public viewing and the use of the Thondaman Cultural Centre at Ramboda, Thondaman Sports Complex at Norwood and Thondaman Vocational Training Centre at Hatton or any part thereof; and
- (e) any income, investments or other receipts due to the Foundation.

(4) There shall be paid out of the Fund all such sums of money as are required to defray any expenditure incurred by the Board in the exercise and discharge of its powers and functions under this Act.

Accounts and
audit.

11 (1) The Board shall cause its books of accounts to be balanced on the thirty first day of December in each year and shall not later than the last day of February next following prepare a profit and loss account and a balance sheet containing a summary of the assets and liabilities of the Board made up to the date aforesaid, prepared and signed by the officer responsible for the preparation of such accounts and balance sheet.

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

12. The Foundation shall with the concurrence of the Minister in charge of the subject of Finance, be exempt from the payment of any tax on the income or profits of the Foundation to such extent as is permitted in terms of the Inland Revenue Act, No. 38 of 2000.

Exemption of Foundation from taxes.

PART III

GENERAL

13. The Minister may from time to time give general or special directions in writing to the Board as to the exercise of the powers under this Act.

Directions.

14. 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 activities of the Foundation during those years to the Minister who shall cause the report to be placed before Parliament, prior to the end of the year next following the year to which such report relates.

Board's report to be placed before Parliament.

15. 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.

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

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

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

17. (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 for the purpose of giving effect to the provisions of this Act.

Protection of action taken under this Act.

(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 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 unless such expense is recovered by him in such suit or prosecution.

Rules.

18. (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 and disciplinary control of the staff of the Foundation, grant of leave and other benefits to them;
- (b) the schemes of recruitment and procedures for appointment and promotion of the staff 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) such other matters or in respect of which rules are required or authorized by this Act to be made.

(2) Every rule made by the Board shall be approved by the Minister and be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified therein.

19. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

20. In this Act, unless the context otherwise requires — Interpretation.

“Ceylon Workers Congress” means a Trade union registered under the Trade Union Ordinance (Chapter 138) ;

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

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