



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**VIJAYA KUMARATUNGA MEMORIAL
FOUNDATION (INCORPORATION)
ACT, No. 31 OF 1998**

[Certified on 10th June, 1998]

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*Vijaya Kumaratunga Memorial Foundation
Act, No. 31 of 1998*

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L.D.—O. 7/97.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A FOUNDATION CALLED THE VIJAYA KUMARATUNGA MEMORIAL FOUNDATION ; TO SPECIFY ITS OBJECTS AND POWERS ; AND TO PROVIDE FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. This Act may be cited as the Vijaya Kumaratunga Memorial Foundation Act, No. 31 of 1998.

Short title.

PART I

ESTABLISHMENT OF THE VIJAYA KUMARATUNGA MEMORIAL
FOUNDATION

2. (1) There shall be established a Foundation, in order to perpetuate the memory of the late Mr. Vijaya Kumaratunga, to be called "The Vijaya Kumaratunga Memorial Foundation" (hereinafter in this Act referred to as the "Foundation".)

Establishment of the Vijaya Kumaratunga 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 in this Act referred to as the "Board") consisting of the following members :—

Members of the Board of Management of the Foundation.

- (a) the President of the Republic ;
- (b) the Leader of the Opposition in Parliament ;
- (c) the Chief Justice of the Supreme Court ;
- (d) the Auditor-General ;
- (e) Mrs. Chandrika Bandaranaike Kumaratunga during her lifetime, and thereafter, the oldest surviving descendant of the late Mr. Vijaya Kumaratunga ;

Provided, however, that if Mrs. Chandrika Bandaranaike Kumaratunga is, for any period, an *ex-officio* member of the Board, the oldest surviving descendant of the late Mr. Vijaya Kumaratunga may, during such period, serve as a member of the Board :

Provided, further, that in the event of the oldest surviving descendant being unwilling or unable to serve as a member of the Board, the next oldest surviving descendant may serve as a member of the Board : and

(f) two persons appointed by Mrs. Chandrika Bandaranaike Kumaratunga during her lifetime, and thereafter by the Board, from among persons of recognized competence or eminence in foreign affairs, law, education or the arts.

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

(b) A member appointed under paragraph (f) of subsection (1) may be removed from office at any time by Mrs. Chandrika Bandaranaike Kumaratunga or the Board, as the case may be.

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

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

(3) A member referred to in paragraphs (a), (b), (c) or (d) 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 President. In the absence of the President 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.

(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) 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 of any member thereof.

(8) 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.

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 ; and
- (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 communities and peoples of Sri Lanka ;
- (b) to promote the upliftment of youth, who are economically and socially disadvantaged ;

- (c) to promote the advancement of education and knowledge, and to provide scholarships, grants or other forms of financial assistance to scholars, researchers and to recognized institutions or organisations ;
- (d) to promote and encourage, cultural, literary and charitable activities ;
- (e) to organise and hold, public lectures, seminars, workshops, conferences, debates, short term educational courses for youth, with a view to advancing their knowledge and enabling them to secure employment ;
- (f) to promote and encourage publications on matters of national and international interest ;
- (g) to establish and maintain, educational institutions, libraries, museums and hospitals ;
- (h) to promote international peace, understanding and co-operation ;
- (i) to provide all forms of assistance for the development of cinema in Sri Lanka ;
- (j) to do all such other acts or things as may be necessary for the carrying out of all or any of the aforesaid objects.

Powers of the
Foundation.

6. (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 receive or collect, gifts, grants or donations, in cash or kind, from local or foreign persons or organisations ;
- (d) 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 ;
- (e) to borrow, with or without security, moneys necessary for carrying out its objects ;
- (f) 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 such moneys in the purchase of immovable property in Sri Lanka, or vary such investments or place in fixed deposits in any bank, any portion of such moneys not required for immediate expenditure ;
- (g) to appoint such officers and servants as may be necessary for carrying out its objects ; and
- (h) to make rules in relation to all matters connected with the working of the Foundation.

7. (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.

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 procedures 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 service 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.

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

8. Where the Foundation employs any persons 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.

Appointment of public officers to the staff of the Foundation.

9. (1) At the request of the Board, any public officer 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 the 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.

(2) At the request of the Board, any public officer other than a public 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.

(3) Where any public officer 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 public officer 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 expression “University Grants Commission” means the University Grants Commission established by the Universities Act, No. 16 of 1978.

PART II FINANCE

10. (1) The Foundation shall have its own fund. Fund of the
Foundation.
(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; and

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(c) all such sums of money as may be voted from time to time by the Parliament for the use of the Foundation.

(3) 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.

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

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

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

Minister to
exempt the
Foundation from
payment of certain
taxes.

12. (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 32 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.

PART III
GENERAL

13. 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 of the Foundation.

Powers of Minister in relation to the Board.

14. (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, and 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.

15. 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 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 relates.

Board's report to be placed before Parliament.

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

16. 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.

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

17. 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.

Protection of
action taken under
this Act.

18. (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.

Rules.

19. (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) such other matters or in respect of which rules are required or authorised by this Act to be made.

20. 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.

21. In this Act, unless the context otherwise requires the expression 'Minister' means the Minister in charge of the subject of Cultural Affairs.

Interpretation.

Annual subscription of English Bills and Acts of the Parliament Rs. 325 (Local), Rs. 1,180 (Foreign), payable to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, No. 32, TRANSWORKS HOUSE, LOTUS ROAD, COLOMBO 04 before 15th December each year in respect of the year following.