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SOCIALIST REPUBLIC OF
SRI LANKA**

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SUPPLEMENT

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BUDDHIST TEMPORALITIES (AMENDMENT)

A

BILL

to amend Buddhist Temporalities Ordinance (Chapter 318)

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STATEMENT OF LEGAL EFFECT

Clause 2: This clause amends section 2 of the Buddhist Temporalities Ordinance (Chapter 318) (hereinafter referred to as the principal enactment) by defining several new expressions and also expanding the area of application relating to some existing expressions.

Clause 3: This clause amends section 3 of the principal enactment and the legal effect of the section as amended is to register every temple, devala and kovil irrespective of the exemption under the Ordinance.

Clause 4: This clause replaces section 5 of the principal enactment and the legal effect of the new section is to specify the powers of the Commissioner General.

Clause 5: This clause repeals section 6 of the principal enactment and is consequential to the amendment made to section 5.

Clause 6: This clause amends section 7 of the principal enactment and the legal effect of the section as amended is to enable Diyawadana Nilame to hold trustee ship in consultation with the Mahanayake Theroes and also to change the composition of members eligible to be invited to a meeting to elect a new Diyawadana Nilame and vary the period to call for such meeting depending on the circumstances.

Clause 7: This clause inserts a new amends section 7A to the principal enactment and the legal effect of the new section is to prevent a Diyawadana Nilame holding the office of a Basnayake Nilame while holding office of Diyawadana Nilame.

Clause 8: This clause amends section 8 of the principal enactment and the legal effect of the section as amended is to change the composition of the members who attend the meeting to elect a Basnayake Nilame.

Clause 9: This clause inserts new section 8A to the principal enactment and the legal effect of the new section is to prevent a Basnayake Nilame of one devale to hold the office of a Basnayake Nilame of another devale.

Clause 10: This clause amends section 9 of the principal enactment and the legal effect of the amended section is to change the reference to Malwatta Vihare and Asgiriya Vihare to Malwatu and Asgiriya Chapters.

Clause 11: This clause amends section 12 of the principal enactment and the legal effect of the amended section is to limit the duration of the term of office of a Diyawadana Nilame.

Clause 12: This clause repeals section 3 of the Buddhist Temporalities (Amendment) Act, No. 18 of 1981 which is consequential to the amendment made to section 12 of the principal enactment.

Clause 13: This clause amends section 13 of the principal enactment and the legal effect of the amended section is to increase the quantum of the fine.

Clause 14: This clause amends section 14 of the principal enactment and the legal effect of the amended section is to vary the qualifications to be eligible to be a trustee.

Clause 15: This clause amends section 15 of the principal enactment and the legal effect of the amended section is to enable the Commissioner General to remove the Diyawadana Nilame in specified circumstances in the section.

Clause 16: This clause amends section 16 of the principal enactment and the legal effect of the amended section is to make a Basnayake Nilame of Sathara Maya Devale eligible to act in place of Diyawadana Nilame when there is a vacancy in the office of Diyawadana Nilame.

Clause 17: This clause amends section 17 of the principal enactment and the legal effect of the amended section is to enable the Commissioner General to appoint temporary trustees in certain circumstance with all the powers of a permanent trustee.

Clause 18: This clause amends section 19 of the principal enactment and the legal effect of the amended section is to increase the quantum of the fine.

Clause 19: This clause inserts new section 20A of the principal enactment and the legal effect of the inserted new section is to vest all the temple property on a newly appointed Viharadhipathi or controlling Viharadhipathi when the Viharadhipathi or controlling Viharadhipathi who held such position vacates such property in terms of a decision made by Karaka Sanga Saba.

Clause 20: This clause replaces section 23 and the legal effect of the new section is to deem all the pudgalika Property which a bhikku acquires to be temple property except in certain circumstances.

Clause 21: This clause amends section 24 of the principal enactment and the legal effect of the amended section is to increase the quantum of the fine.

Clause 22: This clause replaces section 27 of the principal enactment and the legal effect of the replaced section is to specify the procedure to be followed when transferring rights of paraveni property.

Clause 23: This clause inserts new sections 28A to 28K and the legal effect of the sections are to specify the manner and the procedure to recover temple property from an unauthorized possessor or occupier.

Clause 24: This clause amends section 29 of the principal enactment and the legal effect of the amended section is to increase the quantum of fine and also to specify the covenants required to be inserted in a lease.

Clause 25: This clause amends section 35 of the principal enactment and the legal effect of the amended section is to increase the quantum of a fine.

Clause 26: This clause amends section 36 of the principal enactment and the legal effect of the amended section is to increase the quantum of a fine.

Clause 27: This clause amends section 37 of the principal enactment and the legal effect is to increase the quantum of the fine.

Clause 28: This clause amends section 40 of the principal enactment and the legal effect of the section is to specify general qualifications to be a member of Atamasthana Committee.

Clause 29: This clause amends section 41 of the principal enactment and the legal effect of the section as amended is to extend the period to send forms to Commissioner General and to remove the duty cast on the Mahanayake Theroes under that section.

Clause 30: This clause amends section 42 of the principal enactment and the legal effect of the section as amended is to increase the quantum of a fine.

Clause 31: This clause amends section 43 of the principal enactment and the legal effect of the amended section is to specify new areas relating to which regulations are to be made and the procedure to be followed in order to bring them to operation.

Clause 32: This clause inserts new section 43A to the principal enactment and the legal effect of the inserted section is to cast a duty on any person who is subject to regulations to comply with such regulations made under section 43.

Buddhist Temporalities (Amendment)

L.D.—O. 20/2014.

AN ACT TO AMEND THE BUDDHIST TEMPORALITIES
ORDINANCE (CHAPTER 318)

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

1. (1) This Act may be cited as the Buddhist Temporalities (Amendment) Act, No. of 2015.

Short Title
and date of
operation.

5 (2) The new sections 28A to 28K as inserted in the principal enactment by section 23 of the Act shall come into operation on such date as the Minister may appoint by Order published in the *Gazette*.

2. Section 2 of the Buddhist Temporalities Ordinance (Chapter 318) (in this Act referred to as the “principal enactment”) is hereby amended as follows—

Amendment
of section 2
of the
Buddhist
Temporalities
Ordinance
(Chapter
318).

(1) by the insertion, immediately before the definition of the expression “Bhikkhu” of the following definition:—

15 “atamastane” means Sri Mahabodhiya, Ruwanwelisaya, Jethawanaramaya, Abhayagiriya, Thuparamaya, Mirisawetiya, Lankaramaya and Lowamahapaya situated in the district of Anuradhapura;

20 (2) by the substitution for the definition of the expression “Bhikkhu” of the following definition:—

25 “Bhikkhu” means a venerable bhikkhu whether ordained Upasampada or Samanera in accordance with the accepted Therawadha traditions;

- (3) by the insertion, immediately after the definition of the expression “Commissioner-General of Buddhist Affairs” of the following definition:—

5 “controlling viharadhikari” means any bhikkhu empowered with the administration of the relevant temple by the Viharadhipathi of the relevant temple or where the Viharadhipathi of the relevant temple is the most venerable
10 Maha Nayaka Thera of the relevant Nikaya or Chapter by such Maha Nayaka Thera, so long as the consent of the Viharadhipathi or the most venerable Maha Nayake Thera as the case may be subsists;

- 15 (4) by the insertion immediately after the definition of the expression “Court” of the following definition:—

20 “kandyan provinces” means the areas specified in the First and the Second Schedule to the Kandyan Marriages and Divorce Act, No. 44 of 1952 and includes Divisional Secretaries Division of Morawake Korale and Hiniduma Pattu;

- 25 (5) by the insertion immediately after the definition of the expression “paraveni panguwa” of the following definition:—

“hereditary tenant” shall mean the holder of a paraveni pangu in perpetuity subject to the performance of certain services to the temple or nindagama proprietor;

- 30 (6) by the insertion immediately before the definition of the expression “temple” of the following definition:—

“Solosmastane” means Uthararamaya *alias* Galviharaya, Demala Maha Saya, Kirivehera,

- 5 Jethawanaramaya *alias* Thiwanka
Pilimageya, Lanka Thilakaya, Rankoth
Vehera *alias* Rathnamali Thupaya, Dalada
Maluwa with Watadageya, Thuparamaya,
Alahana Piriwena, Baddha Seemawa, Naipena
Viharaya, Manik Vehera, Pabalu Vehera,
Pothgul Vehera, Thopawewa Dhageba,
Medirigiriya Watadhageya situated in the
administrative district of Polonnaruwa;
- 10 (7) by the substitution for the definition of the
expression “temple” of the following definition:—
- 15 “temple” means any vihara, dhagaba, bhikkhu
awasa, any place of Buddhist Worship of
Theravadha tradition accepted in Sri Lanka
and under the administration and
management of this Ordinance and includes
the Sri Dalada Maligawa of Kandy, the
Sripadasthana, Atamastana situated within
the administrative district of Anuradhapura
20 and the Solosmastana situated within the
administrative district of Polonnaruwa and
any *dewala* administered in terms of the
provisions of subsection (1) of section 4 of
this Ordinance.
- 25 (8) by the insertion immediately after this definition
of the expression of the “temple” of the following
definition:—
- “temple land” means:—
- 30 (a) any land allocated for the use of any temple
under this Ordinance and becomes vested in
such temple in terms of a determination made
by any court, Sannas, Deeds or by any other
means;
- 35 (b) any land owned by a Buddhist temple due to
the demise of a bhikkhu or the disrobing of a
bhikkhu;

(c) any land owned by a temple due to long term possession of such land; and

(d) any land offered to any temple.

5 (9) by the substitution for the definition of the expression “viharadhipathi” of the following definition:—

10 “viharadhipathi bhikkhu” means the chief incumbent of a temple other than a devale, who is entitled to become a viharadhipathi of such temple according to the traditions of the relevant Nikaya or the Chapter or where no such traditional entitlement is available a bhikkhu appointed as viharadhipathi by the Mahanayake Thera of the relevant Nikayas or Chapters and viharadhipathi in relation to Sri Dalada Maligawa means the two most venerable Chief incumbents of Malwattu and Asgiriya Chapters of Mahavihara Wansa Siyamopali Maha Nikaya.

20 3. Section 3 of the principal enactment is hereby repealed and the following section is substituted therefor:—

Replacement of section 3 of the principal enactment.

“(1) The provisions of this Ordinance shall apply to every temple in Sri Lanka:

25 Provided however, the Minister may by an Order published in the *Gazette* exempt any temple other than the Sri Dalada Maligawa, the Sripadasthana, the Atamasthana and the Solosmastane from the application of all or any of the provisions of this Ordinance.

30 (2) Notwithstanding the exemption granted under subsection (1), every Buddhist temple, *devale* and *kovil* situated within every administrative district of Sri Lanka shall be registered with the Department of Buddhist Affairs.

5 (3) The viharadhipathi bhikkhu of the relevant temple shall transmit to the Registrar-General through the Mahanayake Thera of the relevant Chapter or Nikaya, all such information as may be required for the purpose of registration of such temple under subsection (2).

(4) Commissioner-General shall register the temple on the approval of the Maha Nayaka Theros of each such Chapter or Nikaya.

10 (5) Upon registration under subsection (2), the Commissioner-General shall issue to every viharadhipathi bhikkhu of each such Buddhist temple a certificate confirming such registration.”.

15 **4.** Section 5 of the principal enactment is hereby repealed and the following new section is substituted therefor:—

Powers of the
Commissioner-
General.

20 5. Every trustee, Viharadhipathi bhikkhu and every controlling Viharadhipathi bhikkhu shall to the extent authorized by the provisions of this Ordinance be subject to the general supervision of the Commissioner-General.”.

Replacement
of section 5
of the
principal
enactment.

5. Section 6 of the principal enactment is hereby repealed.

Repeal of
section 6 of
the principal
enactment.

25 **6.** Section 7 of the principal enactment is hereby amended as follows:—

Amendment
of section 7
of the
principal
enactment.

(1) by the repeal of subsection (1) of that section and the substitution therefor of the following subsection:—

30 (1) Diyawadana Nilame shall hold the trusteeship of the Sri Dalada Maligawa Kandy and he shall in carrying out his duties consult the Mahanayake Theros of Malwattu and Asgiriya Chapter.”.

- (2) by the repeal of subsection (2) of that section and the substitution therefor of the following subsection:—

5 “(2)(a) Whenever a vacancy occurs in the office of the Diyawadana Nilame, the Commissioner-General shall prior to a period of not less than one month of the date fixed for a meeting invite-

- 10 (i) all bhikkhu members of two Vinshadh Wargika Karaka Maha Sangha Sabas of Malwathu and Asgiri Chapters including the Mahanayake Theros of Malwathu and Asgiri Chapters:

15 Provided that, any vacancy in the composition of the Sanga Saba of two Vinshadh Wargika Karaka Sanga Saba shall not affect the decision taken under this section;

- 20 (ii) the Basnayake Nilames of Sathara Maha Devales connected to Sri Dalada Maligawa Mahanuvara; and

- (iii) the person holding office of the District Secretary of the Administrative District of Kandy,

25 for the meeting in Kandy, by a written notice sent by registered post addressed to the last known place of abode of each such person.

(b) A receipt issued by the Postal Department shall be *prima-facie* evidence of intimation by registered post.

5 (c) Where a vacancy occurs in the office of the Diyawadana Nilame on completion of the term of office, the Commissioner-General shall, prior to three months of such occurrence or where such vacancy occurs due to any other reason, before the
10 expiry of three months from the date of such occurrence of such vacancy hold such meeting specified in this subsection.”.

15 7. The following new section is hereby inserted immediately after section 7 of the principal enactment and shall have effect as section 7A of that enactment:—

Insertion of new 7A in the principal enactment.

“No person appointed as Diyawadana Nilame shall while
20 holding such office, hold office of Basnayake Nilame of a *Dewale*.
7A. No person appointed as the Diyawadana Nilame of Sri Dalada Maligawa Kandy shall, while holding the office of Diyawadana Nilame hold the office of Basnayake Nilame of a *Dewale*.”.

8. Section 8 of the principal enactment is hereby amended by the repeal of subsection (2) of that section and the substitution therefor of the following:—

Amendment of section 8 of the principal enactment.

25 “(2)(a) Whenever a vacancy occurs in the office of the Basnayake Nilame, the Commissioner-General shall summon the following persons for a meeting at a place within the administrative district in which such *dewale* is situated-

30 (i) the persons for the time being holding office of the Divisional Secretary in the district in which such *dewale* is situated;

- 5 (ii) the Basnayake Nilames of the dewale in the administrative district in which the dewale is situated and administered under section 4(1) of this Ordinance and in the case of a *dewale* situated in the administrative district of Kandy, the Diyawadana Nilame;
- 10 (iii) the trustees of all temples situated in the administrative district in which the relevant *dewale* is situated and administered under section 4(1) of this Ordinance;
- 15 (iv) in relation to sathara maha *dewale* situated within the districts of Kandy, bhikkhu members of Vinshad Wargika Karaka Maha Sangha Sabawa of Malwathu and Asgiri Chapters including the Mahanayake Theros of Malwathu and Asgiri Chapters and persons specified in paragraphs (i), (ii)
- 20 and (iii) of this subsection;
- 25 (v) in the case of a *dewale* not situated in the Kandyan Province, the relevant persons specified in paragraphs (i), (ii) and (iii) of this subsection, and the Viharadhipathi bhikkhus of the Buddhist temples situated in the Divisional Secretary's Division of the district within which such *dewale* is
- 30 situated;
- 35 (b) A written notice shall be sent to each person specified in paragraph (a) of this section by registered post not later than one month prior to the date fixed for the said meeting, addressed to the last known place of abode of such person;

(c) The receipt issued by the Postal Department shall be *prima facie* evidence of intimation by registered post;

5 (d) Where a vacancy occurs in the office of a Basnayake Nilame on completion of the term of office, the Commissioner-General shall prior to three months of the date of such occurrence, or where the vacancy occurs due to any other reason before the expiry of three months from the date of such occurrence of such vacancy, hold such meeting.”.

9. The following new section is hereby inserted immediately after section 8 of the principal enactment and shall have effect as section 8A of that enactment:—

Insertion of new section 8A in the principal enactment.

15 “No Basnayake Nilame shall while holding such position hold the position of the Basnayake Nilame of another *Dewale*.
8A. No person appointed as the Basnayake Nilame for a *dewale* shall, while holding office as a Basnayake Nilame, hold the office of a Basnayake Nilame of another *Dewale*.”.

20 10. Section 9 of the principal enactment is hereby amended in paragraph (c) of subsection (2), by the substitution for the words “Malwatta vihare and Asgiri vihare” of the words “Malwathu Chapter and Asgiri Chapter”.

Amendment of section 9 of the principal enactment.

25 11. Section 12 of the principal enactment is hereby amended by the repeal of proviso to that section and the substitution therefor of the following:—

Amendment of section 12 of the principal enactment.

“Provided that, the period of office of the Diyawadana Nilame shall be for a term of five years, however no person shall be eligible to be elected to

the office of Diyawadana Nilame for more than three terms:

5 Provided further, that the term of office of the person holding office of Diyawadana Nilame on the date of coming into operation of this Act shall be ten years commencing from the date of assuming duties of such office for the second term.

12. Section 3 of Buddhist Temporalities (Amendment) Act, No. 18 of 1981 is hereby repealed.

Repeal of section 3 of the Buddhist Temporalities (Amendment) Act, No. 18 of 1981.

10 **13.** Section 13 of the principal enactment is hereby amended in subsection (2) thereof by the substitution for the words “shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five hundred rupees for each such contravention” of the words “shall be
15 guilty of an offence and shall on conviction after summary trial by a Magistrate be liable to a fine not exceeding five thousand rupees.”.

Amendment of section 13 of the principal enactment.

14. Section 14 of the principal enactment is hereby amended as follows:—

Amendment of section 14 of the principal enactment.

20 (1) by the repeal of paragraph (a) of that section and the substitution therefor of the following paragraph—

25 “(a) except in the case of a bhikkhu, unless he is the owner of immovable property of the value (after allowing for any mortgage debt thereon) of not less than five million rupees or is in receipt of a clear annual income of not less than two hundred thousand rupees;”;

30 (2) in paragraph (b) thereof by the substitution for the words “other infamous crime” of the word “any other criminal offence under any law”;

15. Section 15 of the principal enactment is hereby amended in subsection (1) thereof by the substitution for the words “writing against him and to call upon him to answer thereto” of the following:—

Amendment of section 15 of the principal enactment.

5 “writing against him and to call upon him to answer thereto where a Diyawadana Nilame fails to exercise, discharge or perform his powers, duties and functions in accordance with the provisions of this Ordinance or acts in the manner bringing
10 disrepute to the Buddha Sasana or Dalada Maligawa, he shall be removed from the office of Diyawadana Nilame, after an inquiry conducted by the Commissioner-General, with the consent of the majority of members specified in section 7(2).”.

16. Section 16 of the principal enactment is hereby amended as follows:—

Amendment of section 16 of the principal enactment.

(1) by the renumbering of that section as subsection (1) thereof;
20 (2) immediately after the renumbered subsection (1) by the insertion of the following subsection:—

25 “(2) Where a vacancy occurs in the office of Diyawadana Nilame due to the reasons specified in subsection (1), a Basnayake Nilame of the Sathara Maha *Dewale* situated within the Municipal limits of Kandy, nominated by the Mahanayake Theras of Malwathu and Asgiri Chapter shall be appointed to act in such office of Diyawadana Nilame.”.

17. Section 17 of the principal enactment is hereby repealed and the following new section is substituted therefor:—

Replacement of section 17 of the principal enactment.

30 “Temporary appointment of a trustee during the occurrence of a vacancy. 17(1). Where a trustee refuses to accept office or where a vacancy occurs due to death, vacation of office, incapacity, disqualification, resignation, suspension, dismissal or insolvency of any trustee, the Commissioner-

General shall have the power to make a temporary appointment for the performance of the duties of the office of the trustee until the appointment of a successor is made.

5 (2) (a) Where the Commissioner-General makes a temporary appointment under subsection (1) and where such appointment is for a *dewala*, he shall appoint only a Basnayake nilame or a trustee of another *Dewala*. If the
10 vacancy occurs in a temple where a Viharadhipathie Thero had held the position of the trustee, a temporary trustee shall be appointed after consulting the Mahanayake Thero of the Nikaya or the Chapter to which
15 the relevant temple belongs. Further, the temporary trustee shall be appointed within seven days of the occurrence of such vacancy.

 (b) Any temporary trustee shall have all the powers of a trustee under this Ordinance and
20 such person shall exercise and perform all the powers, functions and duties of a trustee.

 (c) A temporary trustee appointed under this section shall deposit a prescribed security with the Commissioner-General.

25 (3) Where a trustee leaves the island, a person nominated in writing by such trustee shall act in place of such trustee provided such nomination shall be notified in writing to the Commissioner-General by such trustee.

30 (4) In the case of a temporary appointment or nomination of a person to act in place of Diyawadana Nilame, the appointment or nomination shall be subject to the approval of Mahanayake Theras of Malwatte and the
35 Asgiriya Chapters.”.

18. Section 19 of the principal enactment is hereby amended by the substitution for the words “not exceeding one hundred rupees” of the words “not exceeding ten thousand rupees”.

Amendment of section 19 of the principal enactment.

19. The following new section is hereby inserted immediately after section 20 of the principal enactment and shall have effect as section 20A of that enactment:—

Insertion of new 20A in the principal enactment.

“Temple property to vest in the Viharadhipathi or Controlling Viharadhipathi.

20A. Any Viharadhipathi bhikkhu or controlling Viharadhipathi bhikkhu refuses or fails to comply with a decision made by the Karaka Sanga Saba under section 10 of the Theravada Bhikkhu Kathikawath (Registration) Act, No. of 2015 shall vacate the temple property within a period of one month from the date of such decision. The Karaka Sanga Saba shall appoint another Viharadhipathi bhikkhu or controlling Viharadhipathi bhikkhu, as the case may be, of the same Nikaya or Chapter in accordance with the provisions of this Ordinance and the temple property shall vest in the Viharadhipathi bhikkhu of controlling viharadhipathi bhikkhu appointed by the Karaka Sanga Saba, subject however to any lease, tenancy, charge or encumbrances if any affecting any such immovable property at the time of making such decision.”.

20. Section 23 of the principal enactment is hereby repealed and the following new section is substituted therefor:—

Replacement of section 23 of the principal enactment.

“Pudgalika property acquired by bhikkhu for own use.

23. All pudgalika property both movable and immovable acquired by any individual bhikkhu for his exclusive personal use, shall if not alienated by such bhikkhu during his life time or where such bhikkhu disrobes, such property shall be deemed to be the property of

such temple in which such bhikkhu resides unless such property has been inherited by such bhikkhu through succession.”.

21. Section 24 of the principal enactment is hereby
 5 amended in subsection (3) of that section by the substitution of section 24 of the principal enactment. for the words “any sum exceeding one hundred rupees” of the words “any sum exceeding one hundred thousand rupees”.

22. Section 27 of the principal enactment is hereby
 10 repealed and the following new section is substituted therefor:— Replacement section 27 of the principal enactment.

“Procedure to be followed when
 15 transferring rights of paraveni property.
 20 27. (1) Where any hereditary tenant intends to transfer any rights of a *paraveni* property, such tenant shall inform such intention to the Commissioner-General with a copy to the trustee if the temple is administered in terms of the provisions of subsection (1) of section 4 or with a copy to the Viharadhipathi bhikkhu if it is any other temple, and obtain prior written approval of the Commissioner-General.

(2) The Commissioner-General may thereupon—

(a) grant approval on being satisfied that the
 25 rights to be transferred were rights of a *paraveni* property or portion thereof and send a copy of such approval to the trustee of the relevant temple ; or

(b) refuse the approval and inform the
 30 applicant in writing of such refusal with reasons therefor.

(3) The Commissioner-General shall maintain a register of approvals granted or refusal to grant approval by him under this section.

5 (4) Any hereditary tenant who is aggrieved by the decision of the Commissioner-General may within one month from the date of such decision, appeal to the Secretary to the Ministry of the Minister assigned the subject of Buddha Sasana, against such decision.

10 (5) Where the hereditary tenant referred to in subsection (1) fails to obtain the approval of the Commissioner-General prior to the transfer of his rights of any *paraveni* property, such tenant shall be guilty of an offence and shall on summary trial by Magistrate be liable to a fine not exceeding five thousand rupees or in default of payment for imprisonment of a period not exceeding six months in lieu of such default.

20 (6) Where the Commissioner-General grants approval for transfer of any rights of any hereditary tenant of *paraveni* property, the hereditary tenant of such rights on the execution of the deed of transfer shall transmit a certified copy of the transfer deed to the Commissioner-General for information and the Commissioner-General shall notify the same to the trustee of the temple who holds such property in trust.”.

25 **23.** The following new sections are inserted immediately after section 28 of the principal enactment and shall have effect as sections 28A, 28B, 28C, 28D, 28E, 28F, 28G, 28H, 28I, 28J, and 28K of that enactment:—

Insertion of section 28A to section 28k in the principal enactment.

30 “Recovery of temple property from unauthorized possession or occupation. 28A. (1) The procedure applicable for the recovery of temple property belonging or alleged to belong to any temple or for the assertion of title to any such property from any person in unauthorized occupation or possession shall be in the manner specified hereunder:

35 Provided however a request shall be made by the trustee or the Viharadhipathi bhikkhu

to the Commissioner-General requiring him to remove the unauthorized occupant or the possessor from the relevant property :

5 Provided further, the provisions of subsection (1) shall not be applicable to *paravini panguwa* and any property disposed under *Sannases* and Old Deeds Ordinance (Chapter 118).

10 (2) A certificate under the hand of the Commissioner-General to the effect that the person mentioned therein is in unauthorized possession or occupation shall be *prima facie* evidence of the fact stated therein.

15 (3) The possession or occupation by any person of any temple property shall be deemed at all times to have been and to be subject to the provisions of this Ordinance.

Obligation to
comply with
a quit notice.
20 28B. (1) (a) Where the Commissioner-General is of opinion that any person is in unauthorized possession or occupation of any temple property he may serve a notice (hereinafter referred to as the “quit notice”) on such person requiring such person to vacate such property with his dependents, if any, and to deliver vacant possession of such property to Commissioner-General or any person authorized by him as may be specified in the notice on or before a specified date.
25

30 (b) The date to be specified in such notice shall be a date not less than sixty days from the date of the issue or the exhibition of such notice.

35 (2) A quit notice in respect of any temple property shall be deemed to have been served on the person in possession or occupation thereof if such notice is sent by registered post or exhibited in a conspicuous place in or upon such property.

(3) Every quit notice shall be in Form A set out in the Schedule hereto.

| | | |
|----|--|--|
| 5 | Effect of non-compliance with a quit notice. | 28C. Where a quit notice has been served or exhibited under section 28B- |
| 10 | | (a) the person in unauthorized possession or occupation of the property to whom such notice relates or any dependent of such person shall not be entitled to possess or occupy such land after the date specified in such notice; and |
| 15 | | (b) the person in unauthorized possession or occupation shall together with his dependents, if any, duly vacate such property and deliver vacant possession thereof to the Commissioner-General or any person authorized by him in that behalf and whose name is specified in such notice. |
| 20 | Magistrate to issue notice on person named in application to show cause. | 28D. (1) Where any person in unauthorized possession or occupation of any temple property fails to comply with the provisions of section 28C(b) in respect of any quit notice the Commissioner-General may make an application in the Form “B” set out in the Schedule hereto to the Magistrate’s Court within whose local jurisdiction such property or any part thereof is situated— |
| 25 | | (a) setting forth the following matters— |
| 30 | | (i) that he is the person authorized for the purposes of this Ordinance; |
| | | (ii) that the property described in the Schedule to the application is a temple property; |

5 (iii) that a quit notice was served
by registered post on the person
in unauthorized possession or
occupation of such property or
by exhibiting in a conspicuous
place in or upon such property;

10 (iv) that such person named in the
application is in unauthorized
possession or occupation
of such property and has failed
to comply with the provisions
of the aforesaid paragraph (b)
of section 28c in respect of
such notice relating to such
15 property; and

(b) praying for the recovery of possession
of such property and for an order of
ejectment of such person in
20 unauthorized possession or
occupation and his dependents, if any,
from such property.

(2) Every such application under subsection
(1) shall be supported by an affidavit in the
Form "C" set out in the Schedule hereto,
25 verifying the matters set forth in such
application and shall be accompanied by a
copy of the quit notice.

(3) Every application supported by an
affidavit and accompanied by a copy of the
quit notice under the preceding provisions of
30 this section shall be referred to as an
"application for ejectment".

(4) No stamp duty shall be payable for any
application for ejectment.

| | |
|---|--|
| 5 Order for ejectment where no cause is shown. | 28E. (1) Upon receipt of an application under section 28D, the Magistrate shall forthwith issue summons on the person named in the application to appear and show cause on the date specified in such summons (being a date not later than two weeks from the date of issue of such summons) why such person and his dependents, if any, should not be ejected from the property as prayed for in the application. |
| 10 | (2) The provisions of Code of Civil Procedure Act shall <i>mutatis mutandis</i> , apply to the issue of summons referred to in subsection (1), the service thereof and other steps necessary for securing the attendance of the person summoned. |
| 15 Inquiry if cause is shown. | 28F. (1) Where a person on whom summons has been served under section 28E, appears on the date specified in such summons and states that he has cause to show against the issue of an order for ejectment, the Magistrate's Court may proceed forthwith to hear and determine the matter or may set the case for inquiry on a later date. |
| 20 | (2) Where any application for ejectment has been made to a Magistrate's Court, the Magistrate shall give priority over all other business of that Court, to the hearing and disposal of such application, except when circumstances render it necessary for such other business to be disposed of earlier. |
| 25 | 28G. Where after an inquiry the Magistrate is not satisfied that the person showing cause is entitled to the possession or occupation of the property he shall make an order directing such person and his dependents in occupation of such property to be ejected. |
| 30 Order of ejectment. | 28H. (1) Where any person fails to comply with an order made under section 28G the Magistrate shall on the application of the |
| 35 Execution of order of ejectment. | |

Commissioner-General direct the Fiscal or a police officer to eject from the property all persons bound by the order and to deliver possession of such property to the Commissioner-General or his authorized representative.

(2) The Fiscal or the police officer entrusted with the execution of the order of ejectment shall comply with the direction of the Magistrate's Court and shall make a due return of the manner in which he executed such order.

(3) In executing an order of ejectment the Fiscal or the police officer or any officer authorized by the Fiscal or the police officer may use such force as may be necessary to enter the property and to eject any person bound by the order and to deliver possession of the land in accordance with the direction of the Magistrate's Court.

20 Action in vindication may be maintained against the Commissioner-General. 28i. Nothing in this Act contained shall preclude any person who has been ejected from a property under these provisions or any person claiming to be the owner thereof from instituting an action against the Commissioner-General or any other person acted on his behalf for the vindication of his title thereto within six months from the date of the Order of ejectment.

Compensation. 28j. Where an action instituted under section 28i by any person against the Commissioner-General for vindication of title to any property has been decided in favour of such person, such person shall be entitled to recover a reasonable compensation for the damage sustained by reason of his having been compelled to deliver up possession of such property.

- Provisions relating to recovery of temple property to prevail over other law. 28κ. The provisions of this Ordinance relating to the recovery of property belonging to any temple, shall have effect notwithstanding anything contained in any other written law, and accordingly in the event of any conflict or inconsistency between the provisions of this Ordinance and such other law, the provisions of this Ordinance shall prevail.
- 10 **24.** Section 29 of the principal enactment is hereby amended as follows:— Amendment of section 29 of the principal enactment.
- 15 (1) in subsection (1) by the substitution for the words “not more than five hundred rupees or not more than five acres” of the words “not more than five hundred thousand rupees or not more than one acre”;
- (2) by the repeal of subsection (3) of that section and the substitution therefor of the following subsection:—
- 20 “(3) No lease shall be executed for a period exceeding thirty years and a covenant shall be inserted in every lease for the revision of rent on the completion of every five years from the date of the Lease Agreement.”.
- 25 **25.** Section 35 of the principal enactment is hereby amended in subsection (4) thereof by the substitution for the words “shall be guilty of an offence and shall on summary conviction be liable to a fine not exceeding two hundred rupees” of the words “shall be guilty of an offence and shall on conviction after summary trial by a Magistrate be liable to a fine not exceeding twenty thousand rupees.”. Amendment of section 35 of the principal enactment.
- 30 **26.** Section 36 of the principal enactment is hereby amended in subsection (3) thereof by the substitution for the words “shall be guilty of an offence and shall on conviction after a summary trial be liable to a fine not exceeding two hundred rupees” of the words “shall be guilty of an offence and shall on conviction after summary trial by a Magistrate be liable to a fine not exceeding twenty thousand rupees”. Amendment of section 36 of the principal enactment.

27. Section 37 of the principal enactment is hereby amended in subsection (2) of that section by the substitution for the words “exceeding two hundred rupees” of the words “exceeding two hundred thousand rupees”. Amendment of section 37 of the principal enactment.
- 5 28. Section 40 of the principal enactment is hereby amended by the repeal of that section and the substitution therefor of the following new section:- Replacement of section 40 of the principal enactment.
- “General qualification when exercising powers under the Ordinance. 40. No person shall be eligible to be a member or to nominate as a member of the Atamasthana Committee or to be a trustee of a temple unless he is a Buddhist appointed in accordance with the existing vinaya and customs of the Theravada Buddhism and who has completed the age of eighteen years:
- 10
- 15 Provided however, a person who is a Buddhist who has completed the age of eighteen years shall be eligible to exercise his or her vote at the election of a trustee to a temple.”.
- 20 29. Section 41 of the principal enactment is hereby amended as follows:— Amendment of section 41 of the principal enactment.
- (a) in paragraph (b) of subsection 2 of that section by the substitution for the words “within one month of such ordination or robing” of the words “ within three months of such ordination or robing”;
- 25
- (b) by the repeal of subsection (7) of that section and the substitution therefor of the following:—
- 30 “(7) Every upasampada bhikkhu, viharadhipathi bhikkhu, or robing tutor who fails to comply with or acts in contravention of the provisions of this section shall be guilty of an offence and shall on conviction after summary trial by a Magistrate to a fine not exceeding fifty thousand rupees.”.

30. Section 42 of the principal enactment is hereby amended by the substitution for the words “fine not exceeding fifty rupees” of the words “fine not exceeding fifty thousand rupees.”.

Amendment
of section 42
of the
principal
enactment.

5 **31.** Section 43 of the principal enactment is hereby amended as follows:-

Amendment
of section 43
of the
principal
enactment.

(1) in subsection (1) of that section by the insertion of the following paragraphs immediately after paragraph (f) of that subsection-

10 “(fa) prescribing the form of the letter of appointment for trustees to be appointed in terms of this Ordinance;

(fb) prescribing a declaration to be made by the trustees stating that they are not subject to any ineligibilities specified in section 14 of this Ordinance;

(fc) prescribing the amount of security to be given by the trustees and the manner of depositing such security;

20 (fd) prescribing the documents to be maintained in relation to duties to be performed by the tenant of *paraveni* property or a share of such property; and

25 (fe) prescribing the amendments to be made to the forms specified in the Schedule.

(2) by the repeal of paragraph (g) of that section.

(3) by the repeal of subsection (2) and (3) of that section and the substitution therefor of the following subsections:—

30 (2) Every regulation made by the Minister, shall by published in the Gazette and shall come

into operation on the date of such publication or on such later date as may be specified in such regulation.

5 (3) Every regulation made by the Minister shall as soon as convenient after its publication is the *Gazette*, be brought before Parliament for its approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without
10 prejudice to anything previously done thereunder.

(4) A notification of the date on which any regulation shall be deemed to be rescinded, shall be published in the *Gazette*.

15 **32.** The following new section is hereby inserted immediately after section 43 of the principal enactment and shall have effect as section 43A of the principal enactment:-

Insertion of new section 43A in the principal enactment.

Offences under section 43.
20 43A. Any person who contravenes or fails to comply with any regulation made under subsection (1) of section 43 shall be guilty of an offence and shall on conviction after summary trial by a Magistrates, be liable to a fine not exceeding ten thousand rupees. If such
25 person continues to commit that offence after conviction he shall be liable to a fine of rupees five hundred for each day that he continues to commit such offence.

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

Sinhala text to prevail in case of inconsistency.

Schedule (Section 28B)

FORM "A"

Quit Notice

I,..... (state the name of the Commissioner-General of Buddha Sasana or any authorized officer) for the purposes of the recovery of temple property under the Buddhist Temporalities Ordinance, being of the opinion that you (state name) are in unauthorized possession*/occupation of the temple property described in the Schedule hereto do by virtue of the powers vested in me by Section 28B of that Ordinance requires you *(state name)–

- (a) to vacate such property together with your dependants, if any; within days from the date hereof; and
- (b) to deliver vacant possession of such property to me*/a competent authority for the purposes of that Ordinance, or (state name and description, if any, of the authorized person) on or before (state date).

.....
Signature of the Commissioner-General or
of the authorized officer.

Schedule above referred to:

(here describe property stating the situation including the name of district)

.....
Signature of the Commissioner-General.

Date:.....

*Omit if inapplicable.

(Section 28D)

FORM "B"**Application for Ejectment**

To: The Magistrate's Court of
 (state name of such Court)

I,..... (state the name), Commissioner-General for the purposes of the Buddhist Temporalities Ordinance do by virtue of the powers vested in me* by section 28D of that Ordinance, by this application-

(a) set forth the following matters namely:-

- (i) that I am such competent authority;
- (ii) that the property described in the Schedule to this application is property belonging to temple;
- (iii) that a quit notice (a copy of which is attached to this application) was served; on
 (state name and address)*/exhibited in or upon the said property;
- (iv) that the said (state name) is in unauthorized possession*/occupation of the said land and failed to comply with the provisions of Section 28D(b) of that Ordinance.

(b) pray for the recovery of possession of the said property and for the ejectment of the said (state name) and his dependants, if any, from the said property.

.....
 Signature of the Commissioner-General
 or of the authorized officer.

Schedule above referred to:

(here describe property stating the situation including district)

.....
 Signature of the Commissioner-General
 or the authorized officer.

Date:.....

*Omit if inapplicable.

(Section 28D)

FORM “C”

Affidavit

To: The Magistrate’s Court of
(state the name of such Court)

I,..... (state name and designation, if any), do, as required by Section 28D of the Buddhist Temporalities Ordinance hereby solemnly, sincerely and truly declare and affirm/*make oath and say-

- (i) that I am a competent authority for the purposes of that Act;
- (ii) that the property described in the Schedule to this application for ejectment is temple property;
- (iii) that a quit notice (a copy of which is attached to the application for ejectment) was “served” on (state name and address)/exhibited in or upon the said property;
- (iv) that the said (state name) is in unauthorized possession/*occupation of the said property and has failed to comply with the provisions of Section 28C(b) of that Ordinance;

.....
Signature and designation
if any, of deponent.

Affirmed*/Sworn
before me by the
deponent on
this
day of
20.....

.....
Signature and designation if any, of
person administering affirmation or oath.

*Omit if inapplicable.

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