



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

PUBLIC TRUSTEE
(AMENDMENT)

ACT, No. 61 OF 1988

[Certified on 17th December, 1988]

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Public Trustee (Amendment)
Act, No. 61 of 1988

[Certified on 17th December, 1988]

L.D.—O 16/86

AN ACT TO AMEND THE PUBLIC TRUSTEE ORDINANCE

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

1. This Act may be cited as the Public Trustee (Amendment) Act, No. 61 of 1988. Short title

2. Section 4 of the Public Trustee Ordinance (hereinafter referred to as the "principal enactment") is hereby repealed and the following new section substituted therefor :— Replacement
of section
4 of
Chapter 88.

'Appointment
and
powers
of Deputy
Public
Trustee.

4. (1) There may be appointed a deputy or deputies to assist the Public Trustee.

(2) The act of appointment of any Deputy Public Trustee shall specify whether he is appointed as such for the whole of Sri Lanka or any part thereof (the area for which such Deputy Public Trustee is appointed being hereinafter referred to as "the area of his appointment").

(3) Any Deputy Public Trustee appointed under subsection (2) shall, subject to the general or specific orders of the Public Trustee within the area of his appointment, be competent to discharge any of the duties and exercise any of the powers of the Public Trustee, and, when discharging such duties or exercising such powers, shall have the same privileges and be subject to the same liabilities as the Public Trustee.

(4) There may be appointed such legal officers and other staff as may be necessary to assist the Public Trustee or any Deputy Public Trustee in the administration of this Ordinance.

Insertion of
new section
10A in the
principal
enactment.

3. The following new section is hereby inserted immediately after section 10 of the principal enactment, and shall have effect as section 10A, of that enactment:—

“Any Sri Lankan citizen proceeding for employment outside Sri Lanka, to nominate persons to whom compensation is to be paid in the event of his death.

10A. (1) Any Sri Lankan citizen proceeding for employment outside Sri Lanka may, register with the Public Trustee, the names of the persons to whom any compensation shall be payable in the event of his death while being so employed.

(2) Where a Sri Lankan citizen dies while being employed outside Sri Lanka, his employer may transmit to the Public Trustee, any sum payable as compensation in respect of such death, to be paid by the Public Trustee to the persons entitled thereto.

(3) On receipt of any sum under subsection (2) the Public Trustee may, distribute such sum to the persons nominated by the deceased under subsection (1) or in the absence of such nomination, to the persons entitled thereto.”

Insertion of
new sections
25A and 25B
in the
principal
enactment.

4. The following new sections are hereby inserted immediately after section 25 of the principal enactment, and shall have effect as sections 25A and 25B of that enactment:—

‘Application for grant of provisional possession of property by Public Trustee.

25A. (1) Where the Public Trustee makes an application for probate or letters of administration in respect of the estate of the deceased person, he may at the same time make an application for an order authorising him to take provisional possession of the movable and immovable property of the estate (in this section referred to as an “order for provisional possession”).

(2) The court may make an order for provisional possession of an estate at the stage when it enters an order *nisi* in the application by the Public Trustee for the issue of probate or letters of administration in respect of that estate. If the court at any stage discharges such order *nisi*, it shall also cancel the order for provisional possession.

Public Trustee to be competent to institute action as custodian trustee.

(3) Where the Public Trustee takes possession of the movable and immovable property of an estate of a deceased person by virtue of an order for provisional possession, he shall hold such property in trust for the heirs of the estate.

25B. Where the Public Trustee has reason to believe that the managing trustee of any trust of which he has been appointed custodian trustee has, in the exercise of the powers of management or any other power of discretion vested in such trustees, committed a breach of such trust, he may institute an action in the District Court within the local limits of whose civil jurisdiction the whole or any part of the subject matter of the trust is held or situate, to obtain a decree—

- (a) directing the removal of any trustee;
- (b) directing accounts and inquiries;
- (c) declaring what proportion of the trust property or of the interest therein, shall be allocated to any particular object of the trust;
- (d) authorizing the whole or any part of the trust property to be let, sold, mortgaged or exchanged;
- (e) settling a scheme for the management of the trust;
- (f) directing the specific performance of any act by any trustee;
- (g) appointing the Public Trustee as the sole trustee; and
- (h) granting such other or further relief as the nature of the case may warrant.

5. Section 49 of the principal enactment is hereby repealed and the following section substituted therefor:—

Public Trustee may be trustee of temple property.

49. (1) Notwithstanding anything to the contrary in the Buddhist Temporalities Ordinance, the Public Trustee may—

- (a) hold movable property in trust for the benefit of a temple. The income

Replacement of section 49 of the principal enactment.

derived from any such property shall vest in the trustee or Controlling Viharadhipathi of that temple in accordance with section 20 of the Ordinance ;

- (b) manage any immovable property vested in the trustee or Controlling Vihrahhipathi of a temple, being immovable property which is twenty acres or over in extent on contract containing such terms and conditions as may be agreed upon by the Public Trustee and such trustee or Controlling Viharadhipathi.

(2) In this section, the expressions "trustee", "Controlling Viharadhipathi" and "temple" shall have the same meanings respectively, as in the Buddhist Temporalities Ordinance.

(3) The provisions of this section shall come into operation on such date as may be appointed by the Minister, by Order published in the *Gazette*.

Amendment
of section 52
of the
principal
enactment.

6. Section 52 of the principal enactment is hereby amended in subsection (1) of that section by the insertion immediately after paragraph (h) thereof, of the following new paragraph :—

"(i) the matters on which rules are required by this Ordinance to be prescribed."