

## BUDDHIST TEMPORALITIES

### AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO BUDDHIST TEMPORALITIES IN SRI LANKA.

Ordinance Nos,

19 of 1931

9 of 1940

14 of 1941

32 of 1947

Act Nos,

22 of 1955

11 of 1968

22 of 1980

18 of 1981

42 of 1981

3 of 1992

Law Nos, 34

of 1973

#### PART I

#### PRELIMINARY

Short title.                   1. This Ordinance may be cited as the Buddhist Temporalities Ordinance.

Interpretation.           2. In this Ordinance, unless the context otherwise requires

[2, 3 of 1992]

[3, 42 of 1981]

'bhikkhu' means a bhikkhu, whether upasampcada or samanera;

'Commissioner of Buddhist Affairs' means the person for the time being holding the office of the Commissioner of Buddhist Affairs and includes any Deputy Commissioner;

'court' means the District Court having jurisdiction in the matter in question;

'local authority' means a Municipal Council constituted under the Municipal Councils Ordinance (Chapter 252), an Urban Council constituted under the Urban Council Ordinance (Chapter 255), or

a Pradeshiya Sabha constituted under the Pradeshiya Sabha Act, No. 15 of 1987 and includes any authority created and established by or under any written law to excise, perform and discharge powers, duties and functions corresponding to, or similar to, the powers, duties, and functions exercised, performed and discharged by any such Council or Sabha;

'maruvena panguwa' means an allotment of land held by one or more tenants-at-will under a temple, and subject to the performance of service or rendering of dues to a temple;

'paraveni panguwa' means an allotment of land held by one or more hereditary tenants subject to the performance of service or rendering of dues to a temple;

'Provincial Council' means a Provincial Council established by Article 154A of the Constitution;

'Public Trustee' in this Ordinance means the Public Trustee appointed under the provisions of the Public Trustee Ordinance and does not include his deputy or deputies;

'temple' means vihare, dagoba, dewale, kovila, avasa, or any place of Buddhist worship, and includes the Dalada Maligawa, the Sripadasthana, and the Atamasthana of Anuradhapura;

'trustee' means a trustee of a temple appointed under the provisions of this Ordinance, and includes the Diyawadana Nilame, a Basnayake Nilame, and the Atamasthana Committee;

'viharadhipati' means the principal bhikkhu of a temple other than a dewale or kovila, whether resident or not.

Temples governed by the Ordinance. **3.** The provisions of this Ordinance shall apply to every temple in Sri Lanka:

Provided, however, that by an Order made by the Minister and published in the Gazette any temple other than the Dalada Maligawa, the Sripadasthana and the Atamasthana may be exempted by a general reference or otherwise from the operation of all or any of its provisions.

Manager of temple property **4.** (1) The management of the property belonging to every temple not exempted from the operation of this subsection shall be vested in a person or persons duly appointed trustee under the provisions of this Ordinance.

(2) The management of the property belonging to every temple exempted from the operation of the last preceding subsection but not exempted from the operation of the entire Ordinance shall be vested in the viharadhipati of such temple, hereinafter referred to as the 'controlling viharadhipati'.

Commissioner of Buddhist Affairs' powers. 5. Every trustee and every controlling viharadhipati shall to the extent authorized by the provisions of this Ordinance be subject to the general supervision of the Commissioner of Buddhist Affairs who shall in the manner prescribed by regulations under this Ordinance be assisted in the exercise of such supervision by an advisory board.

Advisory board. 6.(1) The advisory board referred to in section 5 shall consist of five members each appointed by the Minister to hold office for a period not exceeding five years, provided that two of such members shall be selected from persons who at the time of their appointment are Members of Parliament.

(2) The said board may for the purposes of any meeting co-opt as members not more than two persons who shall for such meeting possess all the rights of persons duly appointed under subsection (1).

(3) The Commissioner of Buddhist Affairs shall be the chairman of the said board and for the transaction of business its quorum shall be three.

(4) All matters on which the Commissioner of Buddhist Affairs is by regulations under this Ordinance required to consult the said board shall be decided at a meeting by a majority of those present and voting: Provided that when the Commissioner of Buddhist Affairs is unable to abide by such decision such matter shall within one month of such decision be reported by him to the Minister whose decision thereon shall be final.

## PART II

### TRUSTEES

Trustee for Dalada Maligawa" Diyawadana Nilame. 7. (1) The trustee for the Dalada Maligawa shall be the Diyawadana Nilame. (2) Whenever a vacancy occurs in the office of the Diyawadana Nilame the Commissioner of Buddhist Affairs shall within three months of such occurrence summon to a meeting at Kandy

(a) the Mahanayaka Theras of Malwatta Vihare and Asgiriya Vihare;

(b) the divisional Assistant Government Agents holding office within the Kandyan provinces;

(c) the Basnayake Nilames of all dew ales situated within the Kandyan provinces; and

(d) the trustees of all temples within the Kandyan provinces of which the annual income during the three preceding years is estimated by the Commissioner of Buddhist Affairs at over one thousand rupees, to each of whom he shall send by registered post not less than one month before the date fixed for the said meeting a written notice thereof addressed to the last known place of abode of such person.

(3)

(a) The Commissioner of Buddhist Affairs shall preside at such meeting and every person duly summoned and present thereat shall have a vote at every ballot to fill the said vacancy. Such ballot shall always be secret.

(b) If at such meeting the name of not more than one person is proposed and seconded for election to the vacant office the Commissioner of Buddhist Affairs shall declare such person appointed Diyawadana Nilame.

(c) If at such meeting the name of more than one person is proposed and seconded for election to the vacant office a ballot shall be held and the Commissioner of Buddhist Affairs shall declare the person (if any) who receives the highest number of votes at the ballot appointed Diyawadana Nilame. But if at such ballot no candidate receives a greater number of votes than each of the other candidates a second ballot shall be held confined to the candidates who have received the largest number of votes being equal and the Commissioner of Buddhist Affairs shall declare the person (if any) who receives the highest number of votes at such second ballot appointed Diyawadana Nilame. If even at such second ballot no candidate receives a greater number of votes than the number of votes received by each of the other candidates the Commissioner of Buddhist Affairs shall by lot determine which of the candidates receiving the highest

number of votes at such second ballot shall be deemed to have headed the poll and shall thereafter declare him appointed the Diyawadana Nilame.

(d) Whenever the Commissioner of Buddhist Affairs declares any person appointed Diyawadana Nilame he shall further within one month of such declaration issue to such person a written recognition of such appointment.

Trustee for  
dewales"  
Basnayake Nilame  
or other person.

8.(1) The trustee for a dewale for which it has been customary to appoint a Basnayake Nilame shall be the Basnayake Nilame thereof. The trustee for every other dewale shall be a person appointed by the Commissioner of Buddhist Affairs.

(2) Whenever a vacancy occurs in the office of a Basnayake Nilame the Commissioner of Buddhist Affairs shall within three months of such occurrence summon to a meeting at a place within the administrative district in which such dewale is situated

(a)

(i) in the case of a dewale situated in the Kandyan provinces, the persons for the time being holding office in that district as divisional Assistant Government Agents;

Or

(ii) in the case of any other dewale, the persons for the time being holding office in that district as divisional Assistant Government Agents and grama seva niladharis;

(b) the Basnayake Nilames of the dewales in the administrative district in which the dewale is situated and in the case of a dewale in the Kandy administrative district also the Diyawadana Nilame; and

(c) the trustees not being bhikkhus of all temples situated within the divisional Assistant Government Agent's division in which the dewale is situated, to each of whom he shall send by registered post not less than one month before the date fixed for the said meeting a written notice thereof addressed to the last known place of abode of such person.

(3)

(a) The Commissioner of Buddhist Affairs shall preside at such meeting and every person duly summoned and present at such meeting shall have a vote at every ballot to fill the said vacancy.

Such ballot shall always be secret.

(b) If at such meeting the name of not more than one person is proposed and seconded for election to the vacant office the Commissioner of Buddhist Affairs shall declare such person appointed Basnayake Nilame.

(c) If at such meeting the name of more than one person is proposed and seconded for election to the vacant office a ballot shall be held and the Commissioner of Buddhist Affairs shall declare the person (if any) who receives the highest number of votes at the ballot appointed Basnayake Nilame. But if at such ballot no candidate receives a greater number of votes than the number of votes received by each of the other candidates a second ballot shall be held confined to the candidates who have received the largest number of votes being equal and the Commissioner of Buddhist Affairs shall declare the person (if any) who receives the highest number of votes at such second ballot appointed Basnayake Nilame. If even at such second ballot no candidate receives a greater number of votes than the number of votes received by each of the other candidates the Commissioner of Buddhist Affairs shall by lot determine which of the candidates receiving the highest number of votes at such second ballot shall be deemed to have headed the poll and shall thereafter declare him appointed the Basnayake Nilame.

(d) Whenever the Commissioner of Buddhist Affairs declares any person appointed Basnayake Nilame he shall further within one month of such declaration issue to such person a written recognition of such appointment.

Trustee for  
Atamasthana"  
Atamasthana  
committee

9. (1) The trustee for the Atamasthana shall be the Atamasthana Committee which shall consist of three persons each of whom shall possess the qualifications of a trustee and hold office on like terms. The said committee shall elect one of their number as chairman, its quorum shall be two and in the case of an equal division of votes at a meeting the chairman shall have a second or casting vote.

(2) At the commencement of this Ordinance the Public Trustee shall call upon the following persons or groups (of persons respectively), namely:

(a) the Nayaka Thera for the time being of the Bo-maluwa;

(b) the head of the Nuwarawewa family for the time being;

and

(c) the Mahanayake Theras of Malwatta Vihare and Asgiriya Vihare and the Nayaka Thera of Sripadasthana by a majority, within one month to nominate a member to serve on such committee and to report such nomination to him. And whenever a vacancy occurs in the committee thereafter such vacancy shall be filled within one month of its occurrence by a nomination similarly made and reported by the person or group of persons who chose the member whose place is vacant.

Trustee for other temples,

10. (1) The trustee for every temple which is not exempted from the operation of section 4 (1) may if no other special provision is made under this Ordinance for his appointment be nominated by the viharadhipati of such temple who shall thereupon report such nomination forthwith to the Commissioner of Buddhist Affairs. And whenever a vacancy occurs in the office of trustee for any such temple a trustee shall be similarly nominated and reported within one month of the occurrence of the vacancy.

(2) This section shall not extend to the viharadhipati of any of the individual temples which constitute the Atamasthana, or any viharadhipati who has been removed from the office of trustee under section 15 (2).

Appointment of trustees and provisional trustees.

11. (1) Whenever a person is entitled to nominate a trustee under sections 9 or 10 it shall be lawful for him to nominate himself as such trustee unless he has been removed from the office of trustee under section 15 (2) or is disqualified from being a trustee by reason of section 14 :

Provided that the head of the Nuwarawewa family may nominate himself a member of the Atamasthana Committee notwithstanding that he is in the Government service.

(2) Whenever a nomination is duly made under sections 9 or 10 and reported to the Commissioner of Buddhist Affairs it shall be the duty of the Commissioner of Buddhist Affairs to forthwith issue a letter of appointment to the person so nominated unless such appointment would contravene the provisions of this Ordinance.

(3)

(a) Whenever no nomination is duly made under sections 9 and

10 within the periods specified in the said sections or within any further period that the Commissioner of Buddhist Affairs may allow for such purpose, or

(b) whenever by reason of any disputes as to the person entitled to make such nomination more than one person is reported to the Commissioner of Buddhist Affairs as having been duly nominated trustee of any temple, the Commissioner of Buddhist Affairs shall, pending a legal nomination, make any arrangement he thinks necessary for the safe management of the property of such temple, and if he thinks fit provisionally appoint as trustee any person duly qualified.

Term of office of trustee  
[2, 18 of 1981]

12. Unless he earlier resigns or is under the provisions of this Ordinance suspended, dismissed or otherwise removed from office, a person appointed trustee shall hold office for a period of five years commencing from the date of his appointment and shall at the end of such period remain eligible for reappointment:

Provided that

(a) the period of office of a Diyawadana Nilame shall be ten years; and

(b) the period of office of a Basnayake Nilame may be extended by the President, if he is of opinion that it will be conducive to the efficient management of the property of a temple, for a period of one year at a time, so however, that the aggregate of such periods shall not exceed two years.

All trustees to give security

13. (1) Subject to the express provisions of this Ordinance all trustees shall, before entering upon or carrying on their duties, give such security for the due exercise and performance of their powers, duties, and responsibilities under this Ordinance as the Commissioner of Buddhist Affairs shall in each case require:

Provided always that if any trustee is a bhikkhu the Commissioner of Buddhist Affairs shall not require him to give his own personal security, but shall require him to provide one or more sufficient sureties in his place.

(2) Any trustee who exercises or performs or attempts to exercise or perform, any such power, duty, or responsibility in contravention of the provisions of the last preceding subsection 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.

(3) Any trustee who does not give security as in this section provided within three months of the commencement of this Ordinance or of his appointment, or within such further time as the Commissioner of Buddhist Affairs may in any particular case direct, shall be deemed to have vacated his office.

Qualification of trustee.

[3, 3 of 1992]  
[2, 22 of 1980]

14. No person shall be eligible to be elected or to be appointed, or if elected or appointed shall act, as trustee

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

(b) if he has been convicted of theft, fraud, forgery, perjury or other infamous crime such conviction not having been subsequently reversed in appeal, and such person's disqualification on account of such conviction not having been removed by an order of the President;

(bb) if he is disqualified, by or under the provisions of any written law, from practicing or engaging in any profession, vocation or trade;

(c) if he is employed in the Government service;

(cc) if he is elected as a Member of Parliament, a member of a Provincial Council, or a member of a local authority;

(d) if he is a paraveni or maruvena tenant of the temple, or a lessee of any land of the temple except in the case of a viharadhipati who became such tenant or lessee by inheritance;

(e) except with the approval of the Commissioner of Buddhist Affairs if he is over seventy years of age:

Provided always that if a suitable candidate possessed of the above qualifications cannot be found, the Commissioner of Buddhist Affairs may, in the case of a vihare or dagoba, appoint any person nominated by the viharadhipati, though not so qualified.

Suspension and dismissal of

15.

(1) On the complaint of any person interested or on his own motion

trustees.  
[4, 42 of 1981]

the Commissioner of Buddhist Affairs shall have power to hold an inquiry into any alleged misfeasance, breach of trust or neglect of duty committed by any trustee or controlling viharadhipati in respect of property belonging to his temple and if at the conclusion of any such inquiry into the conduct of a trustee the Commissioner of Buddhist Affairs is of opinion that proceedings should be taken for his dismissal it shall be competent for the Commissioner of Buddhist Affairs as a preliminary to suspend such trustee, to frame charges in writing against him and to call upon him to answer thereto.

(2) The Commissioner of Buddhist Affairs or any person interested in a temple may, without joining as plaintiff any of the other persons interested therein, sue before the court having jurisdiction for the area within which such temple is situated the trustee or controlling viharadhipati of such temple for any alleged misfeasance, breach of trust or neglect of duty committed by such trustee or controlling viharadhipati in respect of property belonging to such temple; and such court may after trial

(a) direct the specific performance of any act by such trustee or controlling viharadhipati,

(b) decree damages in favour of such temple and costs against such trustee or controlling viharadhipati, and

(c) direct the removal of such trustee:

Provided that no plaint submitted by any person interested shall be accepted by any court unless it is accompanied by a certificate from the Commissioner of Buddhist Affairs to the effect that he has inquired into the subject-matter of the complaint and that the same is in his opinion suitable for the consideration of the court.

(3) Any person who has a right of attendance at any temple or who has been in the habit of attending at the performance of the worship at any temple shall be deemed to be a person interested in such temple within the meaning of this section.

(4) Proceedings may be taken under this section in respect of every alleged misfeasance, breach of trust or neglect of duty by any trustee or Viharadhipathi whether committed before or after the commencement of this Ordinance and in respect of such proceedings, the Public Trustee shall have all the powers vested in the Public Trustee for the investigation of the conditions and accounts of trusts by the Public Trustee Ordinance, as amended from time to time.

Appointment of trustee on vacancy. **16.** If any trustee, whether appointed before the commencement of this Ordinance or not, shall refuse to accept office, or shall resign or die or vacate his office, or shall become insolvent, or incapacitated from fulfilling the duties of his office by mental or bodily infirmity or disease, or shall cease to be qualified or shall become disqualified, or shall be absent from Sri Lanka for more than one year, or shall be dismissed, then another trustee shall be forthwith appointed in his stead in the manner in this Ordinance provided.

Provisional appointment of trustee during vacancy or suspension or temporary absence. **17.** (1) In the case of the refusal to accept office, death, vacation of office, incapacity, disqualification, resignation, suspension, dismissal or insolvency of any trustee, it shall be competent for the Commissioner of Buddhist Affairs to make provisional arrangements for the performance of the duties of the office pending the appointment of a successor, and any person who may be provisionally appointed to act as trustee shall have all the powers and be liable to all the responsibilities and duties of a trustee appointed under this Ordinance.

(2) In the case of the departure of a trustee from Sri Lanka the person nominated by the trustee in writing shall act for such trustee on such trustee's responsibility. Such nomination shall be reported forthwith to the Commissioner of Buddhist Affairs.

(3) In the case of the appointment or nomination of a person to act for the Diyawadana Nilame, the appointment or nomination shall be subject to the approval of the Mahanayaka Theras of Malwatta Vihare and of Asgiriya Vihare.

Trustee may sue and be sued, but shall not be personally liable in costs- **18.** It shall be lawful for the trustee or controlling viharadhipati of a temple to sue under the name and style of trustee of (name of temple) ' for the recovery of any property vested in him under this Ordinance or of the possession thereof, and for any other purpose requisite for carrying into effect the objects of this Ordinance. He shall also be liable to be sued under the same name and style, but shall not be personally liable in costs for any act bona fide done by him under any of the powers or authorities vested in him under this Ordinance.

Neglect of duty by trustees **19.** If any trustee shall willfully refuse or neglect to perform any of the duties imposed on him under this Ordinance he shall be guilty of an offence, and shall on summary conviction be liable to a fine not

exceeding one hundred rupees, or to simple imprisonment for any term not exceeding three months:

Provided that nothing in this section contained shall affect any other liability to which such trustee may be liable in respect of any such refusal or neglect as aforesaid.

### PART III PROPERTY

- All temple property and all offerings to vest in trustee.
- 20.** All property, movable and immovable, belonging or in anywise appertaining to or appropriated to the use of any temple, together with all the issues, rents, moneys, and profits of the same, and all offerings made for the use of such temple other than the pudgalika offerings which are offered for the exclusive personal use of any individual bhikkhu, shall vest in the trustee or the controlling viharadhipati for the time being of such temple, subject, however, to any leases and other tenancies, charges, and incumbrances already affecting any such immovable property.
- Commutation under the Service Tenures Ordinance to be paid to trustees or controlling viharadhipati.
- 21.** Any commutation of the services due by any temple tenants which has been or may hereafter be made under the provisions of the Service Tenures Ordinance, shall from the time of this Ordinance coming into operation become due and payable to the trustee or controlling viharadhipati of such temple. The Dalada Maligawa, Sripadasthana, and Atamasthana shall, for the purposes of the Service Tenures Ordinance, be deemed to be temples, anything in the said Ordinance to the contrary notwithstanding.
- Trustee or controlling viharadhipati to enforce contracts in favour of, and to recover moneys payable to, temple.
- 22.** All contracts made before the date of the coming into operation of this Ordinance in favour of any temple or of any person on its behalf, and all rights of action arising out of such contracts, may be enforced by the trustee or controlling viharadhipati of such temple, as far as circumstances will admit, as though such contract had been entered into with him; and all persons who at the said date owe any money to any temple or to any person on its behalf shall pay the same to such trustee, or controlling viharadhipati, who is hereby empowered to recover the same by action if necessary.
- Pudgalika property acquired by bhikkhu for
- 23.** All pudgalika property that is acquired by any individual bhikkhu for his exclusive personal use, shall, if not alienated by such bhikkhu during his lifetime, be deemed to be the property of the temple to which such bhikkhu belonged unless such property had been inherited

by such bhikkhu.

- Money to be deposited in bank. **24.** (1) In the case of temples in respect of which the Commissioner of Buddhist Affairs may by writing under his hand so direct, all issues, rents, moneys, profits, and offerings received by the trustee thereof, for or on its behalf shall be deposited in the National Savings Bank or in a bank approved by the Commissioner of Buddhist Affairs in a separate account in the name of the temple.
- (2) The bank pass books of such account shall be open to the inspection of the auditor mentioned in section 38 of this Ordinance or of any officer designated by the Commissioner of Buddhist Affairs at any time.
- (3) No such trustee shall retain in his hand any sum exceeding one hundred rupees, save with the permission in writing of the Commissioner of Buddhist Affairs.

- Application of income by trustees. **25.** All issues, rents, moneys, profits, and offerings received by any trustee for or on behalf of a temple shall, with the sanction of the Commissioner of Buddhist Affairs, be appropriated by such trustee for the following purposes:
- (a) the proper repair and furnishing of such temple and the upkeep of the roads and buildings belonging thereto: Provided that where a vihare and a dewale are in one and the same premises, the funds of either may be used for repairs, extensions to and improvements of the other;
  - (b) the maintenance of the bhikkhus and ministerial officers attached to such temple;
  - (c) the due performance of religious worship and such customary ceremonies as heretofore maintained, in, or by, or in connexion with such temple;
  - (d) the promotion of education;
  - (e) the relief of the poor in the case of a dewale or kovila, and the customary hospitality to bhikkhus and others in the case of a vihare;
  - (f) the payment of compensation under sections 28 and 31 and of all legal expenses properly incurred in carrying out the provisions of this Ordinance;

(g) the payment of such share of the expenses incurred or to be incurred in carrying out the provisions of this Ordinance as shall be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance;

(h) the remuneration of trustees and the payment of expenses incurred by them in carrying out the provisions of this Ordinance; and

(i) such other purposes as may be sanctioned by the Commissioner of Buddhist Affairs.

Mortgage or alienation of immovable property invalid.

**26.** No mortgage, sale, or other alienation of immovable property belonging to any temple, shall be valid or of any effect in law:

Provided that this section shall not apply either to a paraveni pangu or to a sale in execution of any property if the writ for the seizure thereof was issued after written notice of three months to the Commissioner of Buddhist Affairs.

Transfer of paraveni pangu.

**27.** (1) Whenever a paraveni pangu tenant's interest in any land held of a temple is transferred it shall be the duty of the transferee within one month of such transfer to send a written notice thereof in duplicate to the Commissioner of Buddhist Affairs.

(2) The Commissioner of Buddhist Affairs shall thereupon

(a) send the transferee a written acknowledgment of such notice within one week of its receipt,

(b) keep a register of all such notices, and

(c) send one copy of every such notice to the trustee of the temple concerned.

(3) If any transferee fails to comply with the requirements of subsection (1) he shall be guilty of an offence and be liable on summary conviction to a fine of five hundred rupees or in default six months' simple imprisonment.

Recovery of property improperly alienated.

**28.** (1) Whenever the Commissioner of Buddhist Affairs is satisfied that any immovable property belonging to any temple other than a paraveni pangu has been before the commencement of this Ordinance mortgaged, sold, or otherwise alienated to the detriment of such temple, or has been thereafter mortgaged, sold, or otherwise alienated

contrary to the provisions of this Ordinance, it shall be the duty of the Commissioner of Buddhist Affairs to direct the trustee, or the controlling viharadhipati, to institute legal proceedings to set aside such mortgage, sale, or alienation, and to recover possession of such property:

Provided that in the absence of collusion between the parties the court in setting aside any mortgage, sale, or alienation shall award to the mortgagee, vendee, or alienee compensation for any permanent improvements made by him to or upon such property.

(2) If any such trustee or controlling viharadhipati refuses, neglects or delays in taking or prosecuting such proceedings, the Commissioner of Buddhist Affairs may authorize in writing any other person to do so.

Power of trustee or 29.  
controlling  
viharadhipati to  
lease.

(1) It shall be lawful for a trustee or controlling viharadhipati from time to time and for such rent and on such conditions as he shall deem reasonable to lease all or any of the lands belonging to his temple but except in the case of a lease for not more than one year of land worth not more than five hundred rupees or not more than five acres in extent, such leases shall be subject to the following preliminary formalities:

(a) they shall not be made without the previous written sanction of the Commissioner of Buddhist Affairs;

(b) they shall be granted after calling for tenders and ordinarily to the person making the highest tender, unless the Commissioner of Buddhist Affairs shall authorize that they be entered into by auction or private treaty;

(c) the trustee or controlling viharadhipati, shall, if the Commissioner of Buddhist Affairs so directs, publish the full conditions of the lease in one or more of the local newspapers, specifying a date not earlier than six weeks after such publication, after which no tenders will be received by him;

(d) such tenders shall be sent both to the trustee or controlling viharadhipati and to the Commissioner of Buddhist Affairs by the tenderer;

(e) the trustee or controlling viharadhipati shall schedule such tenders and send them with his recommendation to the

Commissioner of Buddhist Affairs, who may make such order thereon as he may think fit.

(2) No land belonging to a temple which is leased under the provisions of this Ordinance shall be used for any purpose which is opposed to the principles of Buddhism.

(3) No lease in any case shall be for a period exceeding ninety-nine years, and in all cases of leases for a period exceeding thirty years, a covenant shall be inserted therein providing for the revision of the rent at every period of ten years from the date of the commencement of the lease.

(4) No trustee or other person holding any office under the provisions of this Ordinance shall be granted the lease of any land or building belonging to any temple in respect of which he holds such office or is trustee.

(5) In all cases where the sanction of the Commissioner of Buddhist Affairs is not required, the name and extent of the land leased, together with the amount of the rent and conditions, shall be reported within one month of the granting of the lease by the trustee or controlling viharadhipati to the Commissioner of Buddhist Affairs.

(6) All leases made in contravention of any of the provisions of this Ordinance shall be null and void and of no effect whatsoever in law.

Assignment of leases.

**30.** Every assignment of a lease of land belonging to a temple shall require the approval of the Commissioner of Buddhist Affairs, and any assignment made without his sanction in writing shall be null and void and of no effect whatsoever in law.

Court may set aside leases in certain cases.

**31.** (1) Whenever it is proved to the satisfaction of a competent court that

- (a) any property of any temple has before the commencement of this Ordinance been leased
  - (i) for a longer term of years than is consistent with the interest of such temple; or
  - (ii) on terms showing an improvident alienation; or
  - (iii) for clearly inadequate consideration; or
  - (iv) for the private benefit of the lessor or any of his relatives or servants; or
  - (v) with a fraudulent intent;



(b) any lease of the property of any temple or assignment thereof has been made in contravention of the provisions of this Ordinance, such court shall on the application of the trustee, or of the controlling viharadhipati of such temple, or if the trustee or controlling viharadhipati fails to make such application on the direction of the Commissioner of Buddhist Affairs, then on the application of any person authorized in writing by the Commissioner of Buddhist Affairs, either set aside such lease and restore possession of the property to the trustee or controlling viharadhipati entitled to hold the same under this Ordinance or modify the conditions of the same.

(2) An application under the preceding subsection may be made by summary procedure, provided that the court may in any case direct that any such application shall be by regular procedure.

(3) Where there has been no collusion between the lessor and the lessee in respect of the lease so set aside, the court shall award to the lessee compensation for permanent improvements to the property effected by him during his tenure of the land.

Recovery of possession of property from trustee who has vacated office, or viharadhipati.

**32.**

(1) Whenever the trustee of any temple who has vacated his office as trustee for any cause whatsoever under the provisions of this Ordinance or of any enactment repealed by Ordinance No. 19 of 1931, or any viharadhipati, shall hold or occupy, either directly or through any other person on his behalf, any movable or immovable property belonging to any temple, and shall refuse or neglect to deliver possession of such property to the trustee for the time being of the said temple, or to any person authorized in that behalf by the Commissioner of Buddhist Affairs, it shall be competent for such trustee, or for the Commissioner of Buddhist Affairs, or the person authorized as aforesaid, as the case may be, to apply by way of summary procedure to the court for a writ requiring such first-named trustee or viharadhipati to deliver possession of the property to such other trustee or person aforesaid.

(2) On the hearing of such application it shall be competent to such court to issue its writ to the Fiscal and give possession accordingly as if it were a writ issued in execution of its own decree.

(3) A certificate under the hand of the Commissioner of Buddhist

Affairs to the effect that the person mentioned therein has vacated his office of trustee as aforesaid shall be conclusive evidence of the fact stated therein.

General powers of court, 33. The court may on the application of the Commissioner of Buddhist Affairs, or any trustee or controlling viharadhipati

(a) give relief against any accidental mistake or omission or any informality occurring in the course of any matter arising under this Ordinance;

(b) extend the time fixed for any action or proceeding in this Ordinance;

(c) order any person within a time fixed in the order to discharge any duty imposed upon him by this Ordinance, and for the purpose of the exercise of its powers under this section make any order that the justice of the case may require.

Prescription not to apply. 34. In the case of any claim for the recovery of any property, movable or immovable, belonging or alleged to belong to any temple, or for the assertion of title to any such property, the claim shall not be held to be barred or prejudiced by any provision of the Prescription Ordinance:

Provided that this section shall not affect rights acquired prior to the commencement of this Ordinance.

#### PARTIV ACCOUNTS, AUDIT

Trustee to keep complete and detailed accounts of income and disbursements.

35. (1) It shall be the duty of every trustee to keep in a form to be prescribed by the Commissioner of Buddhist Affairs complete and detailed accounts

(a) of the offerings made to the temple, and of the issues, rents, moneys, and profits received by him from the movable and immovable property belonging thereto; and

(b) of the disbursements made by him for the purposes defined in section 25 of this Ordinance.

(2) It shall be the duty of every trustee and controlling viharadhipati to keep in a form to be prescribed by the Commissioner of Buddhist Affairs an inventory of all movable and immovable property belonging to the temple.

(3) It shall be the duty of such trustee and controlling

viharadhipati at all reasonable times to permit the Commissioner of Buddhist Affairs or any person authorized by him in writing to inspect all such accounts and inventories and to verify their contents.

(4) Any trustee or controlling viharadhipati who contravenes the provisions of this section shall be guilty of an offence, and be liable on summary conviction to a fine not exceeding two hundred rupees.

Account to be made up half-yearly and submitted.

36. (1) It shall be the duty of every trustee to make up a statement of such accounts at the close of every half-year ending on the thirtieth day of June and the thirty-first day of December, in each year, and such trustee shall sign a declaration at the foot thereof that the accounts are 'true and correct'.

(2)

(a) Within thirty days of the end of each half-year such trustee shall submit his accounts to the Commissioner of Buddhist Affairs. Such accounts shall be countersigned in the case of the Dalada Maligawa by the Mahanayake Theras of Malwatta Vihare and Asgiriya Vihare and in the case of every other temple other than a dewale by the viharadhipati thereof.

(b) Should the Mahanayake Theras or viharadhipati fail to countersign the accounts, the accounts shall be forwarded with a statement to that effect.

(3) Any trustee who contravenes any of the provisions of this section shall be guilty of an offence, and be liable on summary conviction to a fine not exceeding two hundred rupees.

Duty of viharadhipati to furnish information to trustee and the Commissioner of Buddhist Affairs.

37. (1) It shall be the duty of a viharadhipati to furnish to the trustee of the temple and to the Commissioner of Buddhist Affairs, when called upon to do so, all such information as he may possess regarding

(a) the annual income of the temple from the offerings made to such temple ;

(b) the nature, extent, and value of paraveni and maruvena pangu and other lands belonging to such temple; and

(c) the monthly or annual value of the rents, issues, and profits of movable and immovable property belonging to or

held by such temple by virtue of any title whatsoever.

(2) Any viharadhipati who, without just cause withholds any information required to be given by this section, or who willfully gives false information regarding the same, or who without just cause retains possession of any property vested in trustees under the provisions of this Ordinance, or willfully obstructs any trustee or causes any trustee to be obstructed in the discharge of his duties, shall be guilty of an offence and be liable on summary conviction to a fine not exceeding two hundred rupees.

Audit of accounts. 38.

(1) The Commissioner of Buddhist Affairs may cause all accounts of such trustees to be audited by an officer of his own department or he may send all such accounts to the Auditor-General who shall cause the same to be audited by an officer of the Audit Department.

(2) Every such officer shall for the purposes of such audit have all the powers given to an auditor under section 48 of the Commissioner of Buddhist Affairs Ordinance, as amended from time to time, and he shall at the close of such audit send a report in writing together with all declarations which may have been made and signed before him to the Commissioner of Buddhist Affairs who may take thereon such action under the provisions of this Ordinance as he shall think proper.

If income not duly accounted for Commissioner of Buddhist Affairs to hold inquiry and if necessary cause the prosecution of trustees reasonably suspected of breach of trust.

39. If in the case of any temple the issues, rents, moneys, profits, and offerings are not duly accounted for as required in this Part of this Ordinance, it shall be the duty of the Commissioner of Buddhist Affairs to hold such inquiry as he may think fit, and to cause to be prosecuted any trustee who may reasonably be suspected of having committed a criminal breach of trust.

#### PART V MISCELLANEOUS

General qualification for existing powers under the

40. No person shall be entitled to be a member of the advisory board or to be a member or to nominate a member of the Atamasthana Committee or to be a trustee or to vote at the election of a trustee of a temple unless he is of the male sex, unless he is a Buddhist by

Ordinance.

religion and unless he has completed his twenty-first year.

Register of  
bhikkhus

41. (1)

(a) In respect of every person who is a bhikkhu at the date of the commencement of this Ordinance

(i) if he is an upasampada bhikkhu he shall himself procure copies of form A in the Schedule and enter therein the details regarding himself for which space is there provided ; and

(ii) if he is a samanera the viharadhipati in whose temple he is resident shall procure copies of form B in the Schedule and enter therein the details regarding such samanera for which space is there provided.

(b) Within three months of the said date or in the case of an upasampada bhikkhu or a samanera who is then absent from Sri Lanka within three months of his return to Sri Lanka, the said upasampada bhikkhu and viharadhipati shall forward their respective forms in duplicate to the Commissioner of Buddhist Affairs.

(2)

(a) In respect of every person who becomes a bhikkhu after the commencement of this Ordinance

(i) if he becomes an upasampada bhikkhu he shall procure from the Commissioner of Buddhist Affairs copies of form A in the Schedule and enter therein the details regarding himself for which space is there provided; and

(ii) if he becomes a samanera the robing tutor shall procure copies of form B in the Schedule and enter therein the details regarding such samanera for which space is there provided.

(b) Within one month of such ordination or robing, as the case may be, the said upasampada bhikkhu and robing tutor shall forward their respective forms in duplicate to the Commissioner of Buddhist Affairs.

(3) The Commissioner of Buddhist Affairs shall on receiving the said forms in duplicate retain one copy of each for his own use and forward the other to the Mahanayaka Thera or Nayaka Thera of the nikaya mentioned therein, and it shall be the duty of both the Commissioner of Buddhist Affairs and the said Mahanayaka Thera or Nayaka Thera to file their respective copies of such forms and make registers thereof.

(4) Such registers of upasampada bhikkhus shall be distinct from such registers of samaneras, they shall be made into bound volumes of which the papers shall be numbered consecutively and they shall each be provided with an index.

(5) The Mahanayaka Thera or Nayaka Thera of every nikaya shall from time to time make all such corrections, additions or alterations in his registers as may be necessary to keep up to date his registers of upasampada bhikkhus and samaneras of his nikaya and the relevant details regarding them; and whenever he makes any such modification in his registers he shall forthwith convey that fact to the Registrar-General who shall similarly modify the registers he is required to keep by this section.

(6) Such registers kept by the Commissioner of Buddhist Affairs shall for the purposes of this Ordinance be prima facie evidence of the facts contained therein in all courts and for all purposes; and subject to the prescribed regulations, every such register may be searched and examined by any person claiming to be interested therein, and certified copies of or extracts from such registers may be obtained on payment of the prescribed fee.

(6A) Where a copy of one of the said forms filed in such a register kept by the Commissioner of Buddhist Affairs is lost, damaged, illegible or in danger of becoming illegible and a duplicate of such copy is available in a register kept by the Mahanayaka Thera or Nayaka Thera of a nikaya, the Commissioner of Buddhist Affairs may, after due inquiry, cause to be substituted therefor, a copy of such duplicate certified by him to have been made after verification with the register kept by such Mahanayaka Thera or Nayaka Thera and to be a true

copy of such duplicate.

(6B) Where both the copy of such a form filed in a register kept by the Commissioner of Buddhist Affairs and its duplicate filed in a register kept by the Mahanayaka Thera or Nayaka Thera of a nikaya

(a) are damaged or in danger of becoming illegible, the Commissioner of Buddhist Affairs may, after such inquiry as he may think necessary, cause to be substituted therefor in his register a copy of such form bearing his certificate setting out the reasons for such substitution and the sources from which the particulars specified in such copy were obtained; or

(b) are lost or illegible, the Registrar-General may cause to be substituted therefor in his register a copy of such form, only after

(i) he has made a full report to the appropriate District Court setting out the reasons for the proposed substitution, the particulars proposed to be substituted and the evidence upon which the particulars have been obtained; and

(ii) the District Court has, after holding such inquiry and giving such notice as the Court may consider requisite, authorized such substitution, as the Court may deem proper. No stamp duty shall be payable on any proceedings before a District Court under this subsection.

(6c) Every copy certified in accordance with the provisions of subsection (6A) or subsection (6B) shall be deemed to be the original which it replaces.

(7) Every upasampada bhikkhu, viharadhipati, robing tutor, Mahanayaka Thera or Nayaka Thera who fails to comply with or acts in contravention of the provisions of this section shall be guilty of an offence and be liable on summary conviction to a fine not exceeding fifty rupees.

Offence of passing off as a bhikkhu. 42. If any person whose name does not appear in the register of upasampada bhikkhus holds himself out to be an upasampada bhikkhu or if any person whose name does not occur in the register of samaneras holds himself out to be a samanera such person shall be guilty of an offence and be liable on summary conviction to a fine not exceeding fifty rupees.

Power to make regulations. 43. (1) It shall be lawful for the Minister to make regulations

- (a) for the preservation and protection of such Buddhist shrines, temples, inscriptions, and monuments, (not being 'antiquities' within the meaning of the Antiquities Ordinance), as may be considered to be of historical, archaeological, or artistic interest, and for preventing the same from being defaced by inappropriate or incongruous repairs or additions;
- (b) for the care and custody of articles of value belonging to temples;
- (c) for the levying of contributions from the property of temples for carrying out the provisions of this Ordinance;
- (d) prescribing the measures for the due safeguarding of offerings and collections made at temples;
- (e) prescribing the forms and the manner in which accounts, registers and books are to be kept, the conditions for their inspection and the fees for extracts therefrom;
- (f) modifying the forms in the Schedule and prescribing additional forms;
- (g) prescribing the matters in which the Commissioner of Buddhist Affairs shall consult the advisory board and the manner in which such board shall conduct its meetings; and
- (h) prescribing the method of preparing a register of voters for the election of the Diyawadana Nilame and Basnayake Nilames.

(2) All regulations made under this Ordinance shall be laid as soon as conveniently may be, on the table of Parliament at two successive meetings of Parliament and shall be brought before Parliament at the next subsequent meeting held thereafter by a



motion that the said regulations shall not be disapproved; and if upon the introduction of any such motion, or upon any adjournment thereof, the said regulations are disapproved by Parliament, such regulations shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything already done thereunder and such regulations, if not so disapproved, shall continue to be of full force and effect. Every such disapproval shall be published in the Gazette.

(3) The breach of any regulation made in pursuance of this section shall be an offence, and shall be punishable on summary conviction by a fine not exceeding one hundred rupees, and in the case of a continuing offence by a further fine not exceeding five rupees for each subsequent day on which such offence continues.

Tenant, lessee, or  
servant of temple  
not qualified to  
vote at election of  
trustee

44.

No person who is a tenant, lessee, or servant of a ' temple ' shall be qualified to vote at the election of a trustee for the ' temple ' of which he is a tenant, lessee, on servant.

Schedules

### Form A

No.

#### DECLARATION REGARDING UPASAMPADABHIKKHU UNDER SECTION 41 OF THE BUDDHIST TEMPORALITIES ORDINANCE

1. Place of Birth: Province, District, Korale, Pattu or other Division and Village

2. Lay Name in Full ....

3. Date of Birth\*

4. Name of Father in full ....

5. Date of Robing\*

6. Samanera Name

7. Name of Robing Tutor or Names of Robing Tutors and Residence

8. Temple where Robing took place

9. Place of Ordination\*

10. Date of Ordination

11. Name of Karmacharya

12. Name of Upaddhyaya at Ordination

13. Name of Nikaya

14. Name of Mahanayaka Thera or Nayaka Thera of the Nikaya and his full Postal Address

15. Name assumed at Ordination

16. Residence at time of Ordination+

\* If exact date is not known, state year only.

+ The situation of these places should also be stated.

17. Permanent Residence-

18. Residence at time of declaration and full Postal Address

19. Name of Tutor or Names of Tutors presenting for Ordination

20. Name of Bhikkhu presiding at Ordination

21. Serial Number in Samanera Register, if any

22. Date of making the declaration

23. Remarks

Signatures to correctness of above particulars :-

Signature of Upasampada Bhikkhu

Signature of Tutor presenting for Ordination +

Signature of Mahanayaka There or Nayaka Thera or of District Nayaka of the Nikaya

Date of Registration

### FORM B

No.

[Section 41.]

#### DECLARATION REGARDING SAMANERA UNDER SECTION 41 OF THE BUDDHIST TEMPORALITIES ORDINANCE

1. Place of Birth; Province, District, Korale, Pattu or other Division and Village

..

2. Lay Name in full

3. Date of Birth ++

\* The situation of these places should also be stated.

+ This signature is not essential in the case of a form filled in respect of a person who was an upasampada bhikkhu at the commencement of the Ordinance.

++ If exact date is not known, state year only.

4. Name of Father in full ....

5. Date of Robing
6. Name assumed at Robing
7. Name of Robing Tutor or Names of Robing Tutors and Residence
8. Temple where Robing took place\*
9. Temple of Residence after Robing\*
10. Name of Viharadhipati of Temple of Residence
11. Residence at time of declaration\*
12. Name of Nikaya
13. Name of Mahanayaka Thera or Nayaka Thera of the Nikaya and his full Postal Address
14. Date of making the declaration
15. Remarks

Signatures to correctness of above particulars :-

Signature of the Samanera

Signature of Robing Tutor +

Signature of Viharadhipati of Temple of Residence

Date of Registration

\* The situation of these places should also be stated.

+ This signature is not essential in the case of a person who was a samanera at the commencement of the Ordinance.