

PART IV

Application of Parts 11 and Part 111 to Muslim shrines and religious resort.

10. Application for registration of shrines and places of religious resort.

(1) The trustee for the time being of a shrines and places of religious resort, or if there is no such trustee, the person for the time being in charge of a shrines and places of religious resort, which came into existence as such before the appointed date shall, within six months after that date, make a written application to the Board for registration of that shrines and places of religious resort.

(2) The trustee for the time being of a shrines and places of religious resort, or if there is no such trustee, the person for the time being in charge of a shrines and places of religious resort, which came into existence as such on or after the appointed date shall, within six months after the date on which that shrines and places of religious resort came into existence, make a written application to the Board for registration of that shrines and places of religious resort.

11. Board's power to call for information and documents as to shrines and places of religious resort.

(1) Upon receipt of an application under section 10, the Board may, by notice served in the prescribed manner, require the applicant to furnish to the Board, within such time as may be specified in the notice, all such information and documents regarding the shrines and places of religious resort to which that application relates as the Board may consider necessary.

(2) Every applicant required by notice under subsection (1) to furnish any information and documents to the Board shall furnish such information and documents to the Board within the time specified in that notice.

12. Register of shrines and places of religious resort.

(1) The Board shall cause a register of shrines and places of religious resort to be maintained.

(2) The register of shrines and places of religious resort shall, on payment of the prescribed fee, be open for inspection by any person at any time during which the office of the Director is open for the transaction of business

13. Registration of shrines and places of religious resort.

Upon application made to the Board for the registration of a shrines and places of religious resort under section 10, the Board, after making such inquiries as it may deem necessary for verifying -

(a) the particulars contained in such application, and

(b) if any information and documents had been received by it in accordance with any notice served under section 11 on the applicant for registration, such information and the particulars contained in such documents,

shall cause that shrines and places of religious resort to be registered in the register of shrines and places of religious resort by the entry therein of the prescribed particulars relating to that shrines and places of religious resort.

13A. Registration of shrines and places of religious resort on applications made after period specified in section 10.

Notwithstanding anything in section 10, where an application for the registration of a shrines and places of religious resort is made at any time after the expiry of the period specified in that section, such application shall be received by the Board and the provisions of sections 11 and 13 shall apply in relation to such application as if such application were made within the period specified in section 10.

13B. Power of Board to register a shrines and places of religious resort when no application for registration is made.

(1) Where the Board determines that a shrines and places of religious resort in respect of which no application for registration has been made should be registered, the Board shall for the purposes of such registration collect all such information as it may consider necessary regarding that shrines and places of religious resort, and publish a notice of such determination in the Sinhala, Tamil and English languages in the Gazette and in one or more newspapers circulating in the area in which such shrines and places of religious resort is situated.

(2) Every notice under subsection (1) shall specify a date (such date being not later than one month after the date of that notice) on or before which objections to the proposed registration will be received by the Board.

(3) Every objection preferred, in consequence of a notice under subsection (2) shall be in writing and shall contain a statement of the grounds upon which the objection is made.

(4) After the expiry of the date referred to in subsection (2), the Board shall, if it is of the opinion that the shrines and places of religious resort should be registered after considering the objections, if any, to the registration of the shrines and places of religious resort, cause the shrines and places of religious resort to be registered in the register of shrines and places of religious resort by the entry therein of such particulars relating to the shrines and places of religious resort as are available to the Board.

13C. Power of Board to cancel the registration of a shrines and places of religious resort which had been registered by reason of a mistake of law or of fact.

If at any time the Board is satisfied that it has caused a shrines and places of religious resort to be registered by reason of a mistake of law or of fact, it shall be lawful for the Board to cause the entry relating to that shrines and places of religious resort to be deleted from the register of shrines and places of religious resort, and such shrines and places of religious resort shall be deemed to be not registered with effect from the date of such deletion.

PART III
APPOINTMENT, POWERS AND DUTIES OF TRUSTEES OF REGISTERED SHRINES AND PLACES
OF RELIGIOUS RESORT.

14. Appointment of trustees of shrines and places of religious resort.

(1) As soon as may be, after a shrines and places of religious resort has been registered under section 13, the Board-

- (a) shall confirm and appoint a person or persons to be a trustee or trustees who is or have been selected or nominated according to the practices, rules, regulations or other arrangements in force for the administration of the shrines and places of religious resort,
- (b) if no trustee or trustees is or are appointed under paragraph (a), the Board may appoint a person or persons to be a trustee or trustees from among registered members of the amah of the shrines and places of religious resort;
- (c) may appoint a special trustee or trustees for a particular period if the Board considers necessary for the proper administration of the shrines and places of religious resort.

(1A) The Board may at any time after the appointment of a person as trustee of a shrines and places of religious resort revoke his appointment if it is satisfied that such appointment was made by reason of a mistake of law or of fact.

Where the Board decides to revoke the appointment of any person as a trustee it shall by notice in writing addressed to such person-

- (i) inform him of the revocation of his appointment as trustee, and
 - (ii) require him to return to the Board the instrument of appointment issued to him,
- and upon receipt of such notice such person shall comply with such requirement

(2) Every person appointed as a trustee by the Board shall -

- (a) officiate as trustee for such period as provided for by the practices, rules, regulations or other arrangements in force for the administration of the shrines and places of religious resort, or
- (b) officiate as such trustee for such period as may be specified in the instrument of appointment unless he vacates his office under section 15 or his appointment as trustee is revoked by the Board or tribunal;

(3) Until the Board makes an appointment or appointments under the preceding provisions of this section, the trustee or trustees for the time being of that shrines and places of religious resort or, if there is no such trustee, the person for the time being in charge of the

shrines and places of religious resort shall be responsible for the exercise of all powers and the performance of all duties in connection with that shrines and places of religious resort,

(3A) It shall be the duty of the trustee or trustees of a shrines and places of religious resort to submit to the Directors-

- (a) a duly certified copy of the practices, rules, regulations or other arrangements in force for the time being for the administration of the shrines and places of religious resort, and
- (b) a copy of the list of registered members for the time being of the amah' of the shrines and places of religious resort; and

15. Vacation of office by trustee and appointment of successor.

(1) Every trustee of registered shrines and places of religious resort shall vacate his office-

- (a) on death, or
- (b) if he is convicted by a competent court of an offence involving moral turpitude; or
- (c) if he is adjudged by a competent court to be of unsound mind; or
- (d) if, having been adjudged an insolvent or a bankrupt, he has not been granted by a competent court a certificate to the effect that his insolvency or bankruptcy has arisen wholly or partly by unavoidable losses or misfortunes; or
- (e) if he resigns office by writing under his hand addressed to the Director, or
- (f) if whilst he is a trustee of a Jumma shrines and places of religious resort, holds office as a trustee of another Jumma shrines and places of religious resort:

Provided, however, that where more than one Jumma shrines and places of religious resort is administered by a common Board of Trustees according to long usage or custom in a particular area, a trustee of a Jumma shrines and places of religious resort may hold the office of trustee on another Jumma shrines and places of religious resort, or

- (g) if the Board removes him from office under section 29.

(2) Where a trustee of a registered shrines and places of religious resort vacates office, the Board may, taking into account the matters specified in section 14(1), appoint in his place a new trustee for such period, not exceeding five years, as may be specified in his instrument of appointment.

(3) When a trustee vacates office the other trustees shall, during the continuance of the vacancy, exercise the powers vested in, and perform the duties imposed on, trustees by or under this Act.

15A. Duty of person or persons in charge of any property belonging to a shrines and places of religious resort to hand over or deliver possession of such property to the duly appointed trustee or trustees of that shrines and places of religious resort.

(1) Upon the appointment of a trustee or trustees of a shrines and places of religious resort by the Board, the person or persons who immediately prior to the date of such appointment had in any capacity whatsoever the possession, custody or control of any property which-

- (a) belonged to that shrines and places of religious resort; or
- (b) in any way appertained to that shrines and places of religious resort; or
- (c) was appropriated to the use of that shrines and places of religious resort, shall, upon a request being made in writing therefor by such trustee or trustees, hand over, or deliver possession of, such property, together with any documents relating to such property, to such trustee or trustees.

(2) Where any person fails to comply with the requirements of a request made under subsection (1) within thirty days of the date of receipt of such request, the Board may, if it decides so to do, cause a notice in writing to be served on such person. Every such notice shall direct such person to hand over or deliver possession of, within a period not exceeding one month as may be specified in such notice, such property as may be specified in the notice together with any documents relating thereto to the trustee or trustees of the shrines and places of religious resort appointed by the Board.

(3) Where any person fails to deliver possession of, or to hand over, to the trustee or trustees of a shrines and places of religious resort any property other than money specified in a notice served on him under subsection (2) within the period specified in that notice, the Director, if directed so to do by the Board, shall, on making an application in that behalf to the Magistrate's Court having jurisdiction over the place where the land is situated, if such property is land, or where such person resides, if such property is property other than land, be entitled to an order of that court directing the Fiscal to deliver possession of or hand over such property to the trustee or trustees of the shrines and places of religious resort.

(4) Where any person fails to hand over to the trustee or trustees of a shrines and places of religious resort any sum of money specified in a notice served on him under subsection (2) within the period specified in that notice, the Director may issue a certificate setting out the sum of money and the name and last known place of abode of such person to a Magistrate having jurisdiction over the place in which such person resides and such sum may be recovered in like manner as a fine imposed by that court, notwithstanding that the amount of the money may exceed the amount of the fine which that court may in the exercise of its ordinary jurisdiction impose.

Nothing in the preceding provisions of this subsection shall authorise or require the Magistrate in any proceeding thereunder to consider, examine or decide the correctness of any statement in the certificate of the Director

(5) (a) Where an order under subsection (3) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute that order and shall in writing report to that court the manner in which that order was executed.

(b) For the purpose of executing an order relating to land issued by a Magistrate's Court under subsection (3), the Fiscal or any person acting under his directions may use such force as may be necessary to enter the land to which that order relates and to eject any person in occupation thereof and to deliver possession of that land to the trustee or trustees of the shrines and places of religious resort.

(c) Notwithstanding the provisions of any other law, the execution of an order made by a Magistrate's Court under subsection (3) shall not be stayed in any manner by means of any appeal or other step taken or proposed to be taken in any court with a view to varying or setting aside such order.

(6) (a) A request referred to in subsection (1), or a notice referred to in subsection (2), to any person, shall be made or given by letter dispatched to him by registered post and addressed to his last known place of abode.

(b) A request or notice made or given to any person by letter as provided in this subsection shall be deemed to have been made to, or served on, him at the time at which the letter would have been delivered in the ordinary course of post.

(7) A decision of the Board under subsection (2) shall be final and conclusive and shall not be called in question in any court:

Provided, however, that any person who claims to have any interest in any property which has been handed over, or the possession of which has been delivered to, the trustee or trustees of a registered shrines and places of religious resort under the preceding provisions of this section may, not later than six months after the date on which such property has been handed over or possession thereof has been delivered to such trustee or trustees, institute an action in a court of competent jurisdiction to recover possession of such property, and the decision in such action shall be binding on such trustee or trustees and the Board, but so however that no costs or damages shall be awarded against the Board or any member thereof or such trustee or trustees.

15B. Powers of trustees to appoint, exercise disciplinary control over, and dismiss Katheeb.

The trustee or trustees of a registered shrines and places of religious resort shall have the power to appoint any person as a Katheeb, Pesh Imam, Lebbe, Muezzin, teacher in Arabic, labourer, or other employee in that shrines and places of religious resort, and to exercise disciplinary control over and dismiss, any person carrying on the duties of a Katheeb, Pesh Imam, Lebbe, Muezzin, teacher in Arabic or labourer, or carrying on duties in any other capacity whatsoever in that shrines and places of religious resort.

16. Vesting of property in the trustees of a registered shrines and places of religious resort.

(1) There shall vest in the trustee or trustees of a registered trustee or shrines and places of religious resort-

(a) any movable or immovable property which-

(i) belongs to, or in any wise appertains to, or is appropriated to the use of, that shrines and places of religious resort; or

(ii) is held in trust by, or in the name of, any person exclusively for the benefit of that shrines and places of religious resort; or

(b) the rents and profits of such property; and

(c) the offerings and contributions made for the use of, or to the funds of, or for the performance of religious ceremonies at, that shrines and places of religious resort,

subject to any lease, charge or encumbrance already affecting that property and to the terms of any trust to which that property may be subject.

(2) All money which, under subsection (1), vest in the trustee or trustees of a registered shrines and places of religious resort are in this Act referred to as the income of that shrines and places of religious resort.

17. Deposit of money in an approved bank.

(1) It shall be the duty of the trustee or trustees of a registered shrines and places of religious resort, on a direction issued by the Board and subject to the provisions of subsection (3), to deposit the income of that shrines and places of religious resort in a separate account with a bank approved by the Board.

(2) The bank pass books relating to any account referred to in subsection (1) shall be open for inspection by the auditor or other person referred to in section 28 at all reasonable times during the day.

(3) Where a direction is issued by the Board for the deposit of the income of a registered shrines and places of religious resort in a bank, the trustee or trustees of that shrines and places of religious resort, shall not retain in his or their possession at any time any sum in excess of one hundred rupees.

18. The application of the income of a registered shrines and places of religious resort.

The income of a registered shrines and places of religious resort may, with the previous sanction of the Director, or a Deputy Director or an authorised officer, be appropriated by the trustee or trustees of the shrines and places of religious resort for all or any of the following purposes-

(a) the repair and maintenance of the shrines and places of religious resort and the premises belonging thereto;

- (b) the remuneration of the persons employed for the purposes of the shrines and places of religious resort;
- (c) the performance of religious worship and of all customary religious observances ordinarily performed in the shrines and places of religious resort;
- (d) the promotion of religious or secular education at any school maintained in connection with the shrines and places of religious resort and the relief of poor students at any such school;
- (e) the relief of the poor, the giving of alms in accordance with custom and the burial of poor Muslims;
- (f) the remuneration, as determined by the Board, of the trustee or trustees of the shrines and places of religious resort and the payment of all expenses incurred by such trustee or trustees in the exercise of the powers and the performance of the duties of such trustee or trustees;
- (g) the payment of compensation awarded under section 21 and the payment of all fees due under this Act in respect of the shrines and places of religious resort; and
- (h) any other purposes which may be deemed necessary by the Board.

19. Investment of money of shrines and places of religious resort.

(1) No money of a shrines and places of religious resort shall be invested in such manner as may earn interest.

(2) Subject to the provisions of subsection (1), the trustee of a shrines and places of religious resort may, with the approval of the Board-

- (a) purchase movable or immovable property out of the money of the shrines and places of religious resort; and
- (b) invest such money in any other manner.

20. Restriction on mortgage or other alienation of immovable property of a registered shrines and places of religious resort.

No immovable property which by section 16 is vested in the trustee or trustees of a registered shrines and places of religious resort shall be mortgaged, sold or otherwise alienated except with the approval of the Board.

20A. Authorised officers and their functions.

(1) The Director may in writing authorise such number of officers as may be necessary to be authorised officers for the purposes of this Act.

(2) Upon being instructed by the Director in that behalf, an authorised officer, shall-

- (a) ascertain whether any person has contravened any provisions of this Act, or any regulation made thereunder;
- (b) make application to the Board under section 21, section 22, section 25 and section 20;
- (c) institute and defend any action or proceeding as may be necessary in the Board, the Tribunal or in any court;
- (d) investigate and report or bring to the notice of the Board, the Director or any Deputy Director any allegation of fraud or misuse of property by any trustee or trustees of a registered shrines and places of religious resort.

21. Recovery of immovable property improperly alienated.

Where the Board is satisfied-

- (a) that any immovable property belonging to, or held in trust for, any shrines and places of religious resort has been mortgaged, sold or alienated prior to the appointed date to the detriment of that shrines and places of religious resort; or
- (b) that any immovable property which is vested by section 16 in the trustee or trustees of a registered shrines and places of religious resort has been mortgaged, sold or alienated contrary to the provisions of this Act,

it shall be the duty of the Board to direct an authorised officer to institute legal proceedings in a competent court to set aside such mortgage, sale or alienation and to recover possession of the property:

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

22. Power to lease immovable property of registered shrines and places of religious resort and cancellation of invalid leases.

(1) The trustee or trustees of a registered shrines and places of religious resort may from time to time lease all or any of the immovable property vested in such trustee or trustees by section 16 for such rent, and upon such conditions as such trustee or trustees may deem reasonable: Provided, however, that-

- (a) no trustee shall lease any such immovable property without the previous approval of the Board; or
- (b) no lease shall be granted in favour of any trustee of such shrines and places of religious resort or in favour of any person in whom any such trustee is directly or indirectly interested.

(2) Any lease granted in contravention of the provisions of subsection (1) shall be null and void and of no effect in law.

(3) Where the Board is satisfied that any immovable property has been leased in contravention of the preceding provisions of this section, it shall be the duty of the Board to direct an authorised officer to institute legal proceedings in a competent court to declare such lease null and void and to recover possession of the property.

22A. Duty of trustee or trustees of a registered shrines and places of religious resort to maintain tills in accordance with directions of the Board.

It shall be the duty of a trustee or trustees of a registered shrines and places of religious resort to maintain in the shrines and places of religious resort such number of tills, and in such manner, as the Board may direct for the reception of contributions in money made by worshippers and others who desire to make a contribution to that shrines and places of religious resort.

25. Authorised officer, or trustee or trustees of registered shrines and places of religious resort, may sue.

(1) An authorised officer or the trustee or trustees of a registered shrines and places of religious resort may with the approval of the Board sue for the recovery of any property vested in such trustee or trustees under section 16, or for the recovery of the possession of any such property, or for any other purpose connected with, or incidental to, the exercise and performance of the powers and duties of such trustee or trustees.

(2) The trustee of a registered shrines and places of religious resort or an authorised officer, whether he is the plaintiff or defendant in an action, shall not be personally liable in costs for any act bona fide done by such trustee or authorised officer in the exercise of the powers or the performance of the duties of such trustee or authorised officer.

26. Duty of trustees to keep accounts and maintain inventories.

It shall be the duty of the trustee or trustees of a registered shrines and places of religious resort-

- (a) to keep in such form as the Board may direct full and detailed accounts of the income of that shrines and places of religious resort and of all expenditure incurred by such trustee or trustees;
- (b) to keep in such form as the Board may direct an inventory of all property for the time being vested in such trustee or trustees; and
- (c) to make such accounts and inventory available for inspection by any member of the Board or by any person authorised by the Board or by an authorised office at all reasonable times during the day.

27. Half-yearly statements of accounts to be sent to the Board.

(1) It shall be the duty of the trustee or trustees of a registered shrines and places of religious resort-

- (a) to prepare a statement of the accounts, in such form as may be prescribed, relating to all the money received and expended in respect of that shrines and places of religious resort for each half-year ending on the thirtieth day of June and the thirty-first day of December and to sign a declaration at the end of that statement to the effect that those accounts are true and correct,
- (b) to furnish that statement to the Board within a period of thirty days after the end of the half-year to which that statement relates; and
- (c) to exhibit a copy of that statement for a period of thirty days in a conspicuous position in the premises of that shrines and places of religious resort.

(2) Every statement of accounts prepared under subsection (1) shall be in the language in which the accounts of the shrines and places of religious resort are usually kept.

28. Audit of accounts.

The Board may cause any accounts specified in a statement furnished to the Board under section 27 to be audited by an auditor, or by any other person, approved by the Board.

29. Suspension and removal of trustee of shrines and places of religious resort.

(1) The Board may, of its own motion or upon a complaint made by any five persons interested in any shrines and places of religious resort registered shrines and places of religious resort, either inquire, or direct the Director or any person authorised in that behalf by the Board to hold an inquiry, into any alleged misfeasance, breach of trust or neglect of duty committed by a trustee of that shrines and places of religious resort in respect of any property vested in that trustee or into any failure on the part of a trustee of that shrines and places of religious resort to comply with the provisions of this Act, or into the inability of a trustee of that shrines and places of religious resort to perform the duties imposed by or under this Act or to administer efficiently the general affairs of that shrines and places of religious resort.

(2) Where an inquiry under subsection (1) has been held by the Board, the Board may, if it is satisfied that the allegations against the trustee have been proved, remove such trustee from office.

(3) Where an inquiry under subsection (1) has been held by the Director, the Director may, if he is satisfied that the allegations against the trustee have been proved, suspend such trustee and appoint an interim trustee and thereupon shall submit a report in writing on the inquiry held by him to the Board who shall after considering such report remove the trustee, in respect of whom such inquiry was held, from office or reinstate such trustee

(4) Where an inquiry under subsection (1) has been held by a person other than the Director, such person shall submit a report on the inquiry held by him to the Board who may if it is satisfied that the allegations against the trustee have been proved, remove the trustee from office.

(5) Where any person has been appointed as an interim trustee of a registered shrines and places of religious resort under subsection (3), such person shall hold office until the Board either reinstates the trustee who was suspended or appoints a new trustee, and shall exercise, perform and discharge the powers, duties or functions conferred or imposed upon, or vested in, a trustee of a shrines and places of religious resort by or under this Act.

(6) Subject to the provisions of subsection (7), the Director upon direction issued by the Board in that behalf in respect of a registered shrines and places of religious resort, or any five persons interested in that shrines and places of religious resort, may as against a trustee of that shrines and places of religious resort, make an application to the Tribunal for an order providing for all or any of the following purposes-

- (a) directing the specific performance of any act by that trustee;
- (b) declaring that trustee guilty of any misfeasance, breach of trust, or neglect of duty,
- (c) ordering the payment by that trustee of any sum to the funds of the shrines and places of religious resort by way of damages in respect of any such misfeasance, breach of trust, or neglect of duty, and
- (d) granting such further or other relief as the circumstances of the case may require.

(7) No application, other than an application made by the Director, shall be entertained by the Tribunal under this section unless the application is accompanied by a certificate under the hand of the Director that the application has been approved by the Board.

(8) The interest required in order to entitle any person to be one of the plaintiffs in any action instituted under this section need not be a pecuniary or an immediate interest of such an interest as would entitle the person to take part in the management or superintendence of the shrine or place of religious resort.

(9) Where five or more persons interested in a shrines and places of religious resort have made an application under subsection (6), the withdrawal of one or more than one such person from the application shall not prevent the Tribunal from hearing and determining the application so long as at least one person who made the application continues to be a party.

(10) For the purposes of this section, any person who-

- (a) is the donor of any property to the shrine or place of religious resort or is the direct male descendant of the donor, or
- (b) has during the period of twelve months immediately preceding that has been in the habit of –
 - (i) attending such shrine or place , or

(ii) contributing to the payment of any expenditure incurred in connexion with such shrine or place or

(iii) receiving any calm distributed by any trustee of such shrines of place or otherwise enjoying the benefit

shall be deemed to be a person interested in shrine or place.

30. Effect of Part

The provisions of this Part shall save as expressly provided in this Act, have full effect notwithstanding anything contained in any deed or other instrument:-

(a) relating to the constitution of the office of trustee of any shrines and places of religious resort, or the period during which any such trustee shall hold office or the powers and duties of any such trustee; or

(b) prescribing the purposes for which and the manner in which the income from any property held in trust for the benefit of any shrines and places of religious resort may be applied.