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Buddhist Temporalities
Ordinance

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CHAPTER 318

BUDDHIST TEMPORALITIES

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW
RELATING TO BUDDHIST TEMPORALITIES IN CEYLON.

Ordinances

Nos. 19 of 1931,
9 of 1940,
14 of 1941,
32 of 1947,

Act

No. 22 of 1955.

[1st November, 1931.]

PART I

PRELIMINARY

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

Short title.

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

Interpretation.

“*bhikkhu*” means a *bhikkhu*, whether *upasampada* or *samanera*;

“court” means the District Court having jurisdiction in the matter in question;

“*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;

“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 Sri-padasthana, 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 Ceylon:

Provided however that by an Order¹ made by the Minister¹ and published in the Gazette any temple other than the Dalada Maligawa, the Sri-padasthana 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*”.

Public Trustee's 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 Public Trustee who shall in the manner prescribed by regulations under this Ordinance be assisted in the exercise of such supervision by an advisory board.

6. (1) The advisory board referred to in section 5 shall consist of five members each appointed by the Minister¹ 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 Senators or Members of Parliament.¹

Advisory board.

(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 Public Trustee 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 Public Trustee 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 Public Trustee is unable to abide by such decision such matter shall within one month of such decision be reported by him to the Minister¹ whose decision thereon shall be final.

PART II

TRUSTEES

7. (1) The trustee for the Dalada Maligawa shall be the Diyawadana Nilame.

Trustee for Dalada Maligawa—Diyawadana Nilame.

(2) Whenever a vacancy occurs in the office of the Diyawadana Nilame the Public Trustee shall within three months of such occurrence summon to a meeting at Kandy—

[§ 2, 32 of 1947.]

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

(b) the Adigars and Dissawes being Kandyans ;

(c) the ratemahatmayas and divisional revenue officers holding office within the Kandyan provinces ;

[§ 2, 32 of 1947.]

- (d) the Basnayake Nilames of all *dewales* situated within the Kandyan provinces ; and
- (e) the trustees of all temples within the Kandyan provinces of which the annual income during the three preceding years is estimated by the Public Trustee 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 Public Trustee 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 Public Trustee 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 Public Trustee 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 Public Trustee 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 Public Trustee 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 Public Trustee 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.

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 Public Trustee.

Trustee for
dewales—
Basnayake
Nilame or
other person.

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

[§ 3, 32 of 1947.]

(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 rate-mahatmayas, koralas, and divisional revenue officers ; or

[§ 3, 32 of 1947.]

(ii) in the case of any other *dewale*, the persons for the time being holding office in that district as divisional revenue officers, village headmen, mudaliyars, and vidane arachchis ;

(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 revenue officer'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 Public Trustee 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 Public Trustee 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 Public Trustee 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 Public Trustee 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 Public Trustee 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 Public Trustee 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 the
Atamas-
thana—
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 Mahanayaka 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.

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 Public Trustee. 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.

Trustee
for other
temples.

(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).

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 :

Appointment
of trustees
and
provisional
trustees.

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 Public Trustee it shall be the duty of the Public Trustee 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 Public Trustee 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 Public Trustee as having been duly nominated trustee of any temple,

the Public Trustee 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.

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 however that the period of office of a Diyawadana Nilame and of a Basnayake Nilame shall be ten 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 Public Trustee shall in each case require:

Provided always that if any trustee is a *bhikkhu* the Public Trustee 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 Public Trustee may in any particular case direct, shall be deemed to have vacated his office.

14. No person shall be appointed, or, if so appointed, shall act as trustee—

Qualification
of 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 Governor-General ;
- (c) if he is employed in the Government service ;
- (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 Public Trustee if he is over seventy years of age :

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

Suspension
and dismissal
of trustees.

15. (1) On the complaint of any person interested or on his own motion the Public Trustee 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 Public Trustee is of opinion that proceedings should be taken for his dismissal it shall be competent for the Public Trustee as a preliminary to suspend such trustee, to frame charges in writing against him and to call upon him to answer thereto.

(2) The Public Trustee 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 complaint submitted by any person interested shall be accepted by any court unless it is accompanied by a certificate from the Public Trustee 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 *viharadhipati* whether committed before or after the commencement of this Ordinance and in respect of such proceedings the Public Trustee may exercise all the powers vested in him for the investigation of the conditions and accounts of trusts by the Public Trustee Ordinance, as amended from time to time.

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 Ceylon 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.

Appointment of trustee on vacancy.

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 Public Trustee 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.

Provisional appointment of trustee during vacancy or suspension or temporary absence.

(2) In the case of the departure of a trustee from Ceylon 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 Public Trustee.

(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 wilfully 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.

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 Atamas-thana shall, for the purposes of the Service Tenures Ordinance, be deemed to be temples, anything in the said Ordinance to the contrary notwithstanding.

Commutation under the Service Tenures Ordinance to be paid to trustees or controlling *viharadhipati*.

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.

Trustee or controlling *viharadhipati* to enforce contracts in favour of, and to recover moneys payable to, temple.

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*.

Pudgalika property acquired by *bhikkhu* for own use.

24. (1) In the case of temples in respect of which the Public Trustee 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 Ceylon Savings Bank or in a bank approved by the Public Trustee in a separate account in the name of the temple.

Money to be deposited in bank.

(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 Public Trustee 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 Public Trustee.

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 Public Trustee, 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 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 Public Trustee.

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

Mortgage or alienation of immovable property invalid.

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 Public Trustee.

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 Public Trustee.

Transfer of *paraveni pangu*.

(2) The Public Trustee 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.

28. (1) Whenever the Public Trustee 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,

Recovery of property improperly alienated.

it shall be the duty of the Public Trustee 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 Public Trustee may authorize in writing any other person to do so.

Power of trustee or controlling *viharadhipati* to lease.

29. (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 Public Trustee ;
- (b) they shall be granted after calling for tenders and ordinarily to the person making the highest tender, unless the Public Trustee shall authorize that they be entered into by auction or private treaty ;
- (c) the trustee or controlling *viharadhipati*, shall, if the Public Trustee 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 Public Trustee by the tenderer ;
- (e) the trustee or controlling *viharadhipati* shall schedule such tenders and send them with his recommendation to the Public Trustee, 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 Public Trustee 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 Public Trustee.

(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.

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

Assignment
of leases.

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 Public Trustee, then on the application of any person authorized in writing by the Public Trustee, 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.

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 Public Trustee, it shall be competent for such trustee, or for the Public Trustee, 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.

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

(2) On the hearing of such application it shall be competent to such court to issue its writ to the Fiscal or Deputy 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 Public Trustee 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.

33. The court may on the application of the Public Trustee, or any trustee or controlling *viharadhipati*—

General powers of court.

- (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.

PART IV

ACCOUNTS, AUDIT

Trustee
to keep
complete
and detailed
accounts of
income and
disburse-
ments.

35. (1) It shall be the duty of every trustee to keep in a form to be prescribed by the Public Trustee 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 Public Trustee 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 Public Trustee 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.

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".

Account to be made up half-yearly and submitted.

(2) (a) Within thirty days of the end of each half-year such trustee shall submit his accounts to the Public Trustee. 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.

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

Duty of *viharadhipati* to furnish information to trustee and the Public Trustee.

(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 wilfully 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 wilfully 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 Public Trustee 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 Public Trustee 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 Public Trustee who may take thereon such action under the provisions of this Ordinance as he shall think proper.

If income not duly accounted for Public Trustee 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 Public Trustee 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 exercising powers under the Ordinance.

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

41. (1) (a) In respect of every person who is a *bhikkhu* at the date of the commencement of this Ordinance—

Register of
bhikkhus.

- (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 Ceylon within three months of his return to Ceylon, the said *upasampada bhikkhu* and *viharadhipati* shall forward their respective forms in duplicate to the Registrar-General.

(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 Registrar-General 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 Registrar-General.

(3) The Registrar-General 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 Registrar-General 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 Registrar-General 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.

(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 *samana* such person shall be guilty of an offence and be liable on summary conviction to a fine not exceeding fifty rupees.

43. (1) It shall be lawful for the Minister¹ to make regulations—

Power 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 Public Trustee 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.

[§ 50, 9 of 1940.]

(2) All regulations made under this Ordinance shall be laid as soon as conveniently may be, on the table of the Senate and the House of Representatives¹ at two successive meetings of the Senate and the House of Representatives¹ and shall be brought before the Senate and the House of Representatives¹ 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 the Senate or the House of Representatives, 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 a 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, or servant.

PART VI

TRANSITORY PROVISIONS

Continuation of former trustees until appointment of new trustees.

45. Every trustee duly appointed for any temple in accordance with any enactment repealed by Ordinance No. 19 of 1931 and holding office immediately before the commencement of this Ordinance shall until the appointment of a trustee for such temple under this Ordinance continue in office and have the same powers and duties and be subject to the same responsibilities as are conferred or imposed upon a trustee appointed for such temple under this Ordinance:

Provided that in the case of temples which have been exempted from the operation of section 4 (1) but not exempted from the operation of the entire

Ordinance, the trustees in office at the time of the commencement of this Ordinance shall forthwith hand over all property, funds, records of such temple, books and documents in their charge to the controlling *viharadhipati* thereof.

46. (1) On the commencement of this Ordinance every committee constituted under any enactment repealed by Ordinance No. 19 of 1931 shall forthwith deposit with the Public Trustee or at such kachcheri as he may indicate all property, funds, records, books, and documents of which it shall be possessed under or by reason of the provisions of any enactment repealed by Ordinance No. 19 of 1931.

Dissolved committees to deposit property, &c., with Public Trustee.

(2) In the event of any contravention of the provisions of this section, the secretary of such committee or person performing the duties of any such office shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding five hundred rupees; and to a further fine of five rupees for every day during which such contravention continues.

47. Notwithstanding anything to the contrary contained in this Ordinance the person who is Diyawadana Nilame at the commencement of this Ordinance shall for the period of his life be the trustee of the Dalada Maligawa and the persons who are Basnayake Nilames at the commencement of this Ordinance shall be the trustees for life of their respective *dewales* unless they shall earlier resign or be suspended, dismissed or otherwise removed under the provisions of the Ordinance.

Term of trusteeship of Diyawadana Nilame and Basnayake Nilames in office.

48. Subject to any provisions herein before contained, all the property, funds, records, books, and documents of which any committee shall be possessed under or by reason of the provisions of any enactment repealed by Ordinance No. 19 of 1931 and all the rights, powers and duties, debts, liabilities and obligations of such committee shall be deemed to be transferred to the Public Trustee.

Property, &c., of committees to be transferred to Public Trustee.

[Section 41.]

SCHEDULE

Form A

No.)
අංකය)

DECLARATION REGARDING UPASAMPADA BHIKKHU UNDER SECTION 41 OF THE BUDDHIST TEMPORALITIES ORDINANCE

බෞද්ධ විහාර දේවාලය ගම් පණනේ
41 වන වගන්තිය අනුව කළයුතු උපසම්පන්න
හික්කුන් පිළිබඳ ප්‍රකාශය

1. Place of Birth: Province, District, Korale, Pattu or other Division and Village ...	...	...
උපන් ස්ථානය: දිසාව, පළාත, කෝරළේ පන්තුව හෝ වෙනත් කොට්ඨාශය සහ ගම්		
2. Lay Name in full ...	...	...
සම්පූර්ණ ගිහි නම		
3. Date of Birth * ...	...	...
උපන් දිනය*		
4. Name of Father in full ...	...	...
පියාගේ සම්පූර්ණ නම		
5. Date of Robing * ...	...	...
මහණ කළ දින*		
6. Samanera Name ...	...	...
සාමනේර නම		
7. Name of Robing Tutor or Names of Robing Tutors and Residence ...	...	...
මහණ කළ ආචාර්ය හික්කුවගේ නම හෝ හික්කුන්ගේ නම් සහ වාසස්ථාන		
8. Temple where Robing took place † ...	...	...
මහණ කළ විහාරයේ නම †		
9. Place of Ordination † ...	...	...
උපසම්පද කළ ස්ථානය †		

* If exact date is not known, state year only.
* හරි දින නොදන්නේ නම් අවුරුද්ද පමණක් සඳහන් කරණ.
† The situation of these places should also be stated.
† මේ ස්ථාන පිහිටි තැන්ද ලිය යුතුයි.

