

**THE GAZETTE OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

Part II of January 05, 2018

SUPPLEMENT

(Issued on 08. 01. 2018)



**POTHUWATAWANA MAHA VIHARAYA
FOUNDATION (INCORPORATION)**

(Private Member's Bill)

A

BILL

to incorporate the Pothuwatawana Maha Viharaya Foundation

*To be presented in Parliament by Hon. Nalin Bandara Jayamaha, M.P.
for Kurunegala District*

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Pothuwatawana Maha Viharaya Foundation
(Incorporation)

AN ACT TO INCORPORATE THE POTHUWATAWANA MAHA VIHARAYA
FOUNDATION

WHEREAS an Foundation called and known as the Preamble.
“Pothuwatawana Maha Viharaya Foundation” has heretofore
been formed in Sri Lanka for the purpose of effectually
carrying out its objects and transacting all matters connected
5 with the said Foundation according to the rules agreed to by
its members:

AND WHEREAS the said Foundation has heretofore
successfully carried out and transacted the several objects
and matters for which it was established and has applied to
10 be incorporated and it will be expedient to grant the said
application for the public advantage:

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

1. This Act may be cited as the Pothuwatawana Maha Short title.
15 Viharaya Foundation (Incorporation) Act, No. of 2018.

2. (1) From and after date of commencement of this Act, such Incorporation
and so may persons as now are members of the Pothuwatawana of the
Maha Viharaya Foundation (hereinafter referred to as the Pothuwatawana
“Foundation”) or shall hereinafter be admitted as members of Maha
20 the Corporation hereby constituted, shall be a body corporate Viharaya.
with perpetual succession, under the name and style of the
“Pothuwatawana Maha Viharaya Foundation” (hereinafter
referred to as the “Corporation”) and by that name may sue
and be sued, with full power and authority to have and use a
25 common seal and to alter the same at its pleasure.

(2) The Corporation shall be deemed to be a charitable
organization.

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3. The general objects for which the Corporation is constituted are hereby declared to be :—

General
objects of the
Corporation.

- 5 (a) to provide assistance to improve dhamma education, knowledge, attitudes, skills of Buddhists and their children by initiation, continuation and promotion of training courses on Theravada Buddhism;
- 10 (b) to take action to strengthen reconciliation among each other by creation of friendship, goodwill, peace, understanding and co-operation among ethnic and religious groups since this is an area with multi ethnic and multi religious co-existence;
- 15 (c) to take action to give priority to activities such as attracting attendance of local and foreign scholars and devotees as well as followers with a view to further promoting Buddhist doctrine and culture by conducting Buddhist sermons, conferences, discussions and other pertinent programmes and facilitating them etc., since this is a Buddhist temple fully facilitated and situated at a quiet location in
- 20 close proximity to the main airport;
- 25 (d) to establish a just society through organizing, directing and practicing the sil campaign, meditation programmes, and Bodhi Poojas;
- (e) to take necessary action to eradicate any potential threats to the Buddhism and the nation;
- (f) to train local and foreign missionaries from among both laymen and clergymen; and
- 30 (g) to do all such other acts and things as are necessary for and incidental or conducive to the attainment of the above objects.

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5 (2) In the implementation of the objects specified in subsection (1) the Corporation shall ensure that such implementation shall be carried out without any discrimination based on race, religion, language, caste, sex, political opinion, place of birth or any of such grounds.

10 4. The objects of the Corporation shall be carried out in such manner so as not to create any conflict between the work of the Corporation and any work being carried out simultaneously by any Minister or Department of the Government or any Provincial Council.

Corporation to ensure no conflict with work of Ministry or Department of the Central Government or Province.

15 5. (1) Subject to the provisions of this Act the Corporation shall be carried out by a Board of Directors (hereinafter referred to as "the Board" consisting of such number of office bearers as may be specified by the rules made under section 7.

Management of the Affairs of the Corporation.

20 (2) (a) The Board of Directors of the foundation that holds office on the day immediately preceding the date of commencement of this Act, shall function as the Board of the Corporation until the first Board is appointed or elected in the manner provided for by rules made under section 7.

(b) The first Board of the Corporation shall be appointed or elected within one year of the date of commencement of this Act.

25 (3) (a) Every office bearer of the Board including the patrons and advisors, except the chief incumbent of the Viharaya, shall be appointed or elected for a period of three years and any such office bearer, patron or advisor shall be eligible for re-appointment or re-election after lapse of the said period of three years.

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(b) In the event of a vacancy occurring due to the death, resignation, incapacity or removal from office of an office bearer, the Board shall having regard to the rules of the Corporation, elect or appoint a person to fill such vacancy.

5 (c) The person elected or appointed under paragraph (b) shall hold office only for the unexpired portion of the term of office of the member whom he succeeds.

6. Subject to the provision of this Act and any other written law, the Corporation shall have power to do, perform and execute all such acts and matters as necessary or desirable for the promotion or any one of them, including the power -

Power of the Corporation.

15 (a) to purchase, acquire, rent, construct, renovate and otherwise obtain lands or buildings which may be required for the purpose of the Corporation and to deal with or dispose of the same as may be deemed expedient with a view to promoting the objects of the Corporation.

(b) to raise funds and receive grants, gifts or donations, in cash or kind:

20 Provided that, the Board shall obtain the prior written approval of the Department of External Resources of the Ministry of the Minister assigned the subject of Finance, in respect of all foreign grants, gifts or donations made to the Corporation;

25 (c) to make, draw, accept, discount, endorse, negotiate, buy, sell and issue bills of exchange, cheques, promissory notes and other negotiable instruments and to open, operate, and close accounts in any Banks;

30 (d) to invest any funds not immediately required for the purposes of the Corporation in such manner as the Board may determine;

- (e) to undertake, accept, execute, perform and administer any lawful trust or any real or personal property with a view to promoting the objects of the Corporation;
- 5 (f) to appoint, employ, dismiss or terminate the services of officers and servants of the Corporation and exercise disciplinary control over them and to pay them such salaries, allowances and gratuities as may be determined by the Corporation; and
- 10 (g) to do all other things as are necessary or expedient for the proper and effective carrying out the objects of the Corporation.

7. (1) It shall be lawful for the Corporation from time to time, at any general meeting and by the votes of not less than
15 two-thirds of the members present and voting to make rules, not inconsistent with the provisions of this Act, or any other written law, for all or any of the following matters:-

Rules of the Corporation.

- 20 (a) the classification of membership, admission, withdrawal, expulsion or resignation of members and fees payable by members;
- (b) the election of office bearers of the Board or vacation or removal from office of office bearers and the powers, duties and functions of the office bearers;
- 25 (c) the terms and conditions of appointments powers, functions and duties of the various officers, agents and servants of the Corporation;
- 30 (d) the procedure to be followed at the summoning and holding of meetings of the Board or any subcommittee thereof, notices and agenda of such meetings, the quorum and the conduct of business thereat;

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(e) the qualification and disqualification to be a members of the Board and the Corporation;

(f) the administration and management of the property of the Corporation; and

5 (g) the management of the affairs of the Corporation and the accomplishment of its' objects and dissolution of the Corporation.

(2) The rules, made by the Corporation may be amended, altered, added to or rescinded at a like meeting and in like
10 manner as a rule made under subsection (1).

(3) The members of the Corporation shall at all time be subject to the rules of the Corporation.

(4) The rules made under this section shall be published in the Government *Gazette*.

15 **8.** The Board shall maintain a register of members in which name, address and other essential details of the members be inscribed. Register of members.

9. (1) The Corporation shall have its own Fund. Fund of the Corporation.

(2) All moneys received by way of gifts, bequests, donations, subscriptions, contributions, fees or grants for an
20 account of the Corporation shall be deposited in one or more Banks approved by the Board to the credit of the Corporation.

(3) There shall be paid out of the Fund all sums of money
25 as are required to defray any expenditure incurred by the Corporation in the exercise, performance and discharge of its powers, duties and functions under the Act.

10. (1) The financial year of the Corporation shall be the calendar year. Accounts and Auditing.

(2) The Corporation shall cause proper accounts to be kept of its income and expenditure, assets and liabilities and all other transactions of the Corporation.

5 (3) The accounts of the Corporation shall be audited by a qualified auditor appointed by Auditor General in terms of Article 154 of the Constitution.

(4) For the purposes of this section, “qualified auditor” means—

10 (a) an individual who being a member of the Institute of Chartered Accountants of Sri Lanka or any other institute established by law, possesses a certificate to practice as an Accountant issued by the Council of such Institute; or

15 (b) a firm of Accountants, each of the resident partners of which being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law possesses a certificate to practice as an Accountant issued by the Council of such Institute.

20 **11.** (1) The Board shall prepare a report of the activities of the Corporation for each financial year and submit such report together with the audited statement of accounts to the Secretary of the Ministry of the Minister assigned the subject of Social Services and to the Registrar of Voluntary
Annual Report.
25 Social Services Organizations appointed under the Voluntary Social Services Organization (Registration and Supervision) Act, No. 31 of 1980 before the expiration of six months of the year succeeding the year to which such report relates;

30 (2) A separate account relating to the foreign and local moneys received by the Corporation during the financial year shall be attached to the report referred to in subsection (1).

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12. All debts and liabilities of the Academy existing on the day preceding the date of commencement of this Act, shall be paid by the Corporation hereby constituted, and all debts due to, and subscriptions and contributions payable to the Academy on that day shall be paid to the Corporation for the purpose of this Act.

Debts due by and payable to the Foundation.

13. Subject to the provisions of this Act, the Corporation shall be able and capable in law, to take and hold any property movable or immovable which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise, and all such property shall be held by the Corporation for the purposes of this Act, and subject to the rules of the Corporation made under section 7, with power to sell, mortgage, lease, exchange or otherwise dispose of the same.

Corporation may hold property movable and immovable.

14. The moneys and property of the Corporation however derived shall be applied solely towards the promotion of the objects of the Corporation and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or profit to the members of the Corporation.

Application of money and property.

15. (1) The seal of the Corporation shall not be affixed to any instrument whatsoever, except in the presence of two members of the Board who shall sign their names to the instrument in token of their presence and such signing shall be independent of the signing of any person as a witness;

Seal of the Corporation.

(2) The seal of the Corporation shall be in the custody of an office bearer of the Board as may be decided by such Board.

16. (1) If upon the dissolution of the Corporation there remains after the satisfaction of all its debts and liabilities, any property whatsoever, such property shall not be distributed among the members of the Corporation, but shall be given or transferred to any other institution having objects

Property remaining on dissolution.

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similar to those of the Corporation, and which is by the rules thereof, prohibited from distributing any income or property among its members;

5 (2) For the purpose of subsection (1) the appropriate institution shall be determined by the members of the Corporation immediately before the dissolution at a general meeting by the majority of votes of the members present.

10 **17.** Nothing in this Act contained shall prejudice or affect the rights of the Republic of anybody politic or corporate. Saving of the Rights of the Republic and others.

18. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail. Sinhala text to prevail in case of inconsistency.
