



The Madras Hindu Religious and Charitable Endowments Act, 1951

Act 27 of 1954

Keyword(s):

Temple, Revision, Institution, Endowment, Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1954

Amendments appended: 41 of 1963, 13 of 1967, 12 of 1968, 11 of 1981, 31 of 2008

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GOVERNMENT OF MADRAS

LAW DEPARTMENT

MADRAS ACT No. XXVII OF 1954

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in the "Fort St. George Gazette" on the 29th September 1954.]*

**An Act to amend the Madras Hindu
Religious and Charitable Endowments
Act, 1951**

WHEREAS it is expedient to amend the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951), for the purposes hereinafter appearing ;

BE it enacted in the Fifth Year of Our Republic as follows:-

1. *Short title.*- This Act may be called the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1954.

2. *Amendment of sections 10 and 11, Madras Act XIX of 1951.*- In section 10, sub-section (2), and section 11, sub-section (3), of the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951) (hereinafter referred to as the principal Act), the figure “56” shall be omitted.

3. *Substitution of new section for section 21 in Madras Act XIX of 1951.*- For section 21 of the principal Act, the following section shall be substituted, namely:-

“21. *Power to enter religious institution.*- (1) The Commissioner, Deputy Commissioner, Assistant Commissioner or such officers or servants of a religious institution as may be authorized by the Commissioner, Deputy Commissioner or Assistant Commissioner in this behalf, shall have power to enter the premises of any religious institution or any place of worship for the purpose of exercising any power conferred, or discharging any duty imposed, by or under this Act.

(2) If any such officer or servant is resisted in the exercise of such power or discharge of such duty, the Magistrate having jurisdiction shall, on a written requisition from such officer or servant, direct any police officer not below the rank of Sub-Inspector to render such help as may be necessary to enable the officer or servant to exercise such power or discharge such duty.

(3) In entering the premises of a religious institution or place of worship, the person authorized by or under sub-section (1) or the police officer referred to in sub-section (2) shall, if practicable, give notice to the trustee and shall have due regard to the practices and usages of the institution.”.

4. *Insertion of new section 21-A in Madras Act XIX of 1951.*- After section 21 of the principal Act, the following shall be inserted as section 21-A, namely:-

“21-A. *Commissioner, etc., to observe appropriate forms and ceremonies.*- The Commissioner, Deputy Commissioner, Assistant Commissioner, every member of an Area Committee and every other person exercising powers of

superintendence or control under this Act, shall, so far as may be, observe forms and ceremonies appropriate to the religious institution in respect of which such powers are exercised and, in the case of a math, act in conformity with the usages of the math in his dealings with the head of the math.”.

5. *Amendment of section 30, Madras Act XIX of 1951.*- In section 30, sub-section (2), of the principal Act, for the words “the trustee shall be guided by”, the words “the trustee shall have due regard to” shall be substituted.

6. *Substitution of new section for section 31, Madras Act XIX of 1951.*- For section 31 of the principal Act, the following section shall be substituted, namely:-

“31. *Cypres application of surplus funds of endowments.*- (1) The Commissioner may, after holding and inquiry in such manner as may be prescribed, by order, declare that, after satisfying adequately the purposes of the religious institution and after setting apart a sufficient sum for the repair and renovation of the buildings connected with the math or temple or the endowments attached thereto, there is a surplus which is not required for any such purpose, and may, by such order, direct that such surplus as is declared to be available, be appropriated to religious, educational or charitable purposes :

Provided that, in the case of a temple founded and maintained by a section of the Hindu community, the surplus shall, as far as possible, be utilized for the benefit of the said section for the purposes mentioned above.

(2) It shall be competent to the Commissioner when giving a direction under sub-section (1) to determine what portion of such surplus shall be retained as a reserve fund for the math or temple and to direct the remainder to be appropriated to the purposes specified in that sub-section.

(3) The Commissioner may, at any time, by order and in the manner provided in sub-section (1), modify or cancel an order passed under that sub-section.

(4) the order of the Commissioner under this section shall be published in the prescribed manner. The trustee or any other person having interest may, within six months of the date of such publication, institute a suit in the Court to modify or set aside such order.

Subject to the result of such suit, and of the appeal, if any, under section 31-B, the order of the Commissioner shall be final and binding on the trustee and all persons having interest.

(5) Any decision of the Court under this section may, at any time, the sufficient cause, be modified or cancelled by the Court in a suit instituted by the Commissioner or the trustee or any person having interest but not otherwise.”.

7. *Insertion of new sections 31-A and 31-B in Madras Act XIX of 1951.*- After section 31 of the principal Act, the following sections shall be inserted, namely:-

“31-A. *Validation of past appropriation of surplus funds.*- (1) Where, before the commencement of the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1954, an appropriation of funds belonging to a religious institution to any of the purposes specified in section 59, sub-section (1), has been made in exercise of the powers purported to be conferred by section 31, such appropriation shall be deemed to be an appropriation made under section 31 as amended by the said Amendment Act.

(2) Any person having interest may, within six months from the commencement of the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1954, institute a suit in the Court to modify or set aside the appropriation referred to in sub-section (1) and for such further or other relief in relation to funds appropriated.

31-B. *Appeals.*- Any person aggrieved by a decision of the Court under section 31 or section 31-A may, within ninety days from the date of the decision, appeal to the High Court.”

8. *Amendment of section 34, Madras Act XIX of 1951.*- In section 34, sub-section (8) of the principal Act, for the words “who is dedicated to a temple”, the words “who is dedicated for service in a temple” shall be substituted.

9. *Amendment of section 39, Madras Act XIX of 1951.*- In section 39 of the principal Act-

(a) for sub-section (2), the following sub-section shall be substituted, namely:-

“(2) Where, in the case of any such institution having a hereditary trustee or trustees, the Commissioner, after notice to such trustee or trustees and after such inquiry as he deems adequate, considers, for reasons to be recorded, that the affairs of the institution are not, and are not likely to be, properly managed by the hereditary trustee or trustees, the Commissioner may, by order, appoint such number of non-hereditary trustees as he thinks necessary, so however that the total number of trustees does not exceed five.”.

(b) in sub-section (3), for the words, brackets and figures “Every trustee appointed under sub-section (1) or sub-section (2)”, the words, brackets and figures “Every trustee appointed under sub-section (1) and, subject to the result of an application, if any, filed under sub-section (4), every non-hereditary trustee appointed under sub-section (2)” shall be substituted ;

(c) after sub-section (3), the following sub-sections shall be added namely:-

“(4) Where the Commissioner, by order, appoints a non-hereditary trustee or trustees, the hereditary trustee or trustees may, within thirty days of the receipt of the order, file an application to the Court to set aside or modify such order.

(5) Where a vacancy arises in the office of a non-hereditary trustee appointed under sub-section (2), the Commissioner, shall not fill up such vacancy unless, for reasons to be recorded, he considers it necessary to do so. A non-hereditary trustee appointed in the vacancy shall be deemed to have been appointed under sub-section (2), and the provisions of sub-sections (3) and (4) shall apply accordingly.”.

10. *Amendment of section 52, Madras Act XIX of 1951.*- In section 52, sub-section (1), of the principal Act, clause (f) shall be re-lettered as clause (i), and before the clause as so re-lettered, the following clauses shall be inserted, namely:-

“(f) waste of the funds or properties of the institution or the application of such funds or properties for purposes unconnected with the institution ;

(g) the adoption of devices to convert the income of the institution or of the funds or properties thereof into ‘pathakanika’ ;

(k) leading an immoral life or otherwise leading a life which is likely to bring the office of head of the math into contempt;”.

11. *Substitution of new section for section 55, Madras Act XIX of 1951.*- For section 55 of the principal Act, the following section shall be substituted, namely :-

“55. *Power to spend ‘Pathakanika’.*- The trustee of a math shall keep regular accounts of receipts of ‘pathakanika’, that is to say, any gift of property made to him as the head of the math and shall be entitled to spend the said ‘pathakanika’, in accordance with the customs and usages of the institution.”.

12. *Repeal of section 56, Madras Act XIX of 1951.*- Section 56 of the principal Act shall be omitted.

13. *Substitution of new section for section 67 in Madras Act XIX of 1951.*- For section 67 of the principal Act, the following section shall be substituted, namely :-

“67. Term of office and duties of executive officer.- (1) The executive officer shall hold office for such period as may be fixed by the Commissioner and he shall exercise such powers and perform such duties as may be assigned to him by the Commissioner :

Provided that only such powers and duties as appertain to the administration of the endowments of the religious institution shall be assigned to the executive officer.

(2) The Commissioner shall define the powers and duties which may be exercised and performed respectively by the executive officer and the trustee, if any, of the religious institution.

(3) The executive officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

(4) The Commissioner may, for good and sufficient cause, suspend, remove or dismiss the executive officer.”.

14. *Substitution of new sections for sections 68 and 69 in Madras Act XIX of 1951.* For sections 68 and 69 of the principal Act, the following sections shall be substituted, namely :-

“68. Section 58 not to apply to notified institutions.- (1) Section 58 shall not apply to, and no Area Committee shall have jurisdiction over any religious institution notified under this Chapter or under Chapter VI-A of the Madras Hindu Religious endowments Act, 1926 (Madras Act II of 1927), so long as the notification remains in force.

(2) Nothing in sub-section (1) shall be construed as prohibiting the framing of a scheme under section 58 during the period when a notification is in force, to take effect immediately on the notification ceasing to be in force.

69. *Saving*.- Nothing in this Chapter shall apply to maths or other religious institutions having hereditary trustees who have a beneficial interest in the income of the institution.”.

15. *Amendment of section 76, Madras Act XIX of 1951*.- In section 76 of the principal Act -

(1) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely :-

“(1) In respect of the services rendered by the Government and their officers and for defraying the expenses incurred on account of such services every religious institution shall, from the income derived by it, pay to the Commissioner annually such contribution not exceeding five per centum of its income as may be prescribed.

(2) Every religious institution, the annual income of which, for the fasli year immediately preceding as calculated for the purposes of the levy of contribution under sub-section (1), is not less than one thousand rupees, shall pay to the Commissioner annually, for meeting the cost of auditing its accounts, such further sum not exceeding one and a half per centum of its income as the Commissioner may determine.”;

(2) after sub-section (4), the following sub-section shall be inserted, namely:-

“(5) Whenever there is any surplus after meeting all the charges referred to in the foregoing sub-section, it shall be lawful for the Commissioner, acting *suo motu* or on an application to make grants to poor and needy religious institutions for carrying out repairs and renovation subject to such rules as may be framed by Government in this regard.”;

(3) at the end of the section, the following Explanation shall be added, namely:-

“Explanation.- Any religious institution, the annual income of which is less than two hundred rupees, shall not be liable to pay any contribution to the Commissioner as required by sub-section (1).”.

16. *Insertion of chapter IX in Madras Act XIX of 1951.-* After Chapter VIII of the principal Act, the following Chapter shall be inserted, namely:-

“CHAPTER IX

ENDOWMENTS ADMINISTRATION FUND

80. *Commissioner to be corporation sole.-* The Commissioner shall be a corporation sole and shall have perpetual succession and a common seal and may sue and be sued in his corporate name.

81. *Religious and Charitable Endowments Administration Fund.-* (1) There shall be established a Fund to be called the Madras Hindu Religious and Charitable Endowments Administration Fund. The Fund shall vest in the Commissioner.

(2) The Contributions payable under section 76 (1) and the further sums payable under section 76 (2) shall, when realized, be credited to the said Fund. It shall be

lawful for the Commissioner to accept to the credit of the said Fund grants or loans from the Government and grants from any private persons. The Commissioner shall, out of the said Fund, repay to the Government sums paid by the Government under section 76 (4) and loans received from the Government.

82. *Validation of contributions levied.*-(1) Contributions under section 76 (1) and further sums under section 76 (2) shall be payable with effect from the commencement of this Act. For the period from the commencement of this Act until the commencement of the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1954, the rate prescribed by the Government under section 76 (1), or determined by the commissioner under section 76 (2), shall be deemed to be the rate prescribed or determined under section 76 (1) or section 76 (2), as the case may be, as amended by the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1954, and contributions and further sums paid to the Government shall be deemed to be contributions and further sums, as the case may be, paid to the Commissioner under section 76 (1) and section 76 (2) as amended by the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1954.

(2) The Government shall pay to the Commissioner the balance, if any, remaining out of the aggregate of the contributions and further sums paid or realized before the commencement of the Madras Hindu Religious and charitable endowments (Amendment) Act, 1954, in pursuance of section 76 (1) and section 76 (2), after deducting therefrom sums paid by the Government under section 76 (4).”.

17. *Amendment of section 87, Madras Act XIX of 1951.*- In section 87 of the principal Act-

(a) the words and figures “as manager under section 56 or” occurring at the commencement of clause (c) shall be omitted ; and

(b) for the words “any Magistrate of the first class” the words “any Presidency Magistrate or any Magistrate of the first class” shall be substituted.

18. *Amendment of section 89, Madras Act XIX of 1951.*- In section 89, sub-section (4), of the principal Act, the following shall be added at the end, namely:-

“The Commissioner shall pay to the Government any sum so accepted.”.

19. *Amendment of section 103, Madras Act XIX of 1951.*- In section 103, clause (i), of the principal Act, for the words “payable to the Government”, the words “payable to the Commissioner” shall be substituted.

20. *Amendment of Schedule I, Madras Act XIX of 1951.*- In Schedule I to the principal Act-

(1) under the heading “ I. Suits ”, before the entry relating to section 52, the following shall be inserted, namely:-

“ 31. (4) Suits against order of the Commissioner 50

31. (5) Suits to set aside or modify Court’s order 50

31-A. (2) Suits to modify or set aside direction of trustee 50 ” ;

(2) under the heading “II. Applications to Court”, before the entry relating to section 62 (3) (a), the following shall be inserted, namely:-

“ 39. (4) Application to Court against order of the Commissioner ...10” ;

(3) under the heading “ III Appeals to Court ”, in column (1), before the figures, brackets and letter “ 62 (2), 62 (3) (b) ” , the figures and letter “31-B shall be inserted;

(4) under the heading “ V. Appeals to Government , Commissioner, Deputy Commissioner or Trustee”, the figures and brackets “ 31 (2) ” in column (1) and the entries relating thereto shall be omitted.

ACT 41 OF 1963[\[1\]](#)

**THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS (AMENDMENT) ACT, 1963**

An Act to amend the Madras Hindu Religious and Charitable Endowments Act, 1951

Preamble.- WHEREAS it is expedient to amend the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951), in its application to the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956, for the purposes hereinafter appearing;

BE it enacted in the Fourteenth Year of the Republic of India as follows:-

1. *Short title and commencement.*- (1) This Act may be called the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1963.

(2) It shall come into force at once.

2. *Amendment of section 30.*- In section 30 of the Madras Hindu Religious and Charitable endowments Act, 1951 (Madras Act XIX of 1951),-

(i) for sub-section (1), the following sub-section shall be substituted,
namely:-

“ (1) the trustee of a religious institution may, after making adequate provision for the purposes referred to in sub-section (2) of section 70,-

(i) incur expenditure out of the funds in his charge-

(a) on arrangements for securing the health, safety or convenience of disciples, pilgrims or worshippers resorting to the institution; and

(b) for the training of archakas, adhyapakas, vedaparayanikas and othuvars; and

(ii) make contributions in cash or in gold or in silver from the assets of the institution for purposes of national defence.”;

(ii) in sub-section (2), after the words “In incurring such expenditure”, the words “ or making such contributions” shall be inserted.

**THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS (AMENDMENT) ACT, 1967 [1](#)**

(Act 13 of 1967)

*An Act further to amend the Madras Hindu Religious and
Charitable endowments Act, 1951*

Preamble.- WHEREAS it is expedient further to amend the Madras Hindu Religious and Charitable Endowments Act, 1951, for the purposes hereinafter appearing;

BE it enacted in the Eighteenth Year of the Republic of India as follows:-

1. *Short title.*- This Act may be called the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1967.

2. *Amendment of Madras Act XIX of 1951.*- In section 29 of the Madras Hindu Religious and Charitable Endowments Act, 1951 (XIX of 1951), as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), in sub-section (1),-

(a) the words “for a term exceeding five years” shall be omitted; and

(b) after the proviso, the following further proviso shall be inserted,
namely:-

“Provided further that the Commissioner, if he is satisfied that owing to any emergency or for some other reason to be specified in the order according sanction, it is not reasonably practicable to follow the procedure prescribed in the foregoing proviso, may, with the previous sanction of the Government, dispense with such procedure.”

**THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS (AMENDMENT) ACT, 1968 [\[1\]](#)**

(Act 12 of 1968)

*An Act further to amend the Madras Hindu Religious and Charitable Endowments
Act, 1951, and for certain matters connected therewith*

Preamble.-WHEREAS it is expedient further to amend the Madras Hindu Religious and Charitable Endowments Act, 1951, for the purpose hereinafter appearing and for certain matters connected therewith ;

BE it enacted in the Nineteenth Year of the Republic of India as follows:-

1. *Short title.*- This Act may be called the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1968

2. *Substitution of new section for section 102.*- For section 102 of the Madras Hindu Religious and Charitable endowments Act, 1951 (Madras Act XIX of 1951)

(hereinafter referred to as the principal Act), as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), the following section shall be substituted, namely:-

[“102. *Construction of reference to the Board, President or Commissioner.*- Any reference to the Board or its president or a Commissioner thereof contained in any

enactment in force in the State of Kerala or in any notification, order, scheme, rule, form or bye-law issued or made under any such enactment and in force in the State, shall be construed,-

(a) in the case of a religious institution included in the list published under section 38 or over which no Area Committee has jurisdiction, as a reference to the Deputy Commissioner appointed under this Act ;

(b) in the case of a religious institution over which an Area Committee has jurisdiction, as a reference to the Area Committee.”]

3. *Validation.*- Notwithstanding any judgment, decree or order of any court to the contrary, the exercise or purported exercise of any power conferred, or the discharge or purported discharge of any duty imposed, on the Board or its President or any Commissioner thereof, by or under any enactment, notification, order, scheme, rule, form, or bye-law referred to in section 102 of the principal Act, by a Deputy Commissioner or an Area Committee before the commencement of this Act, shall be deemed to be, and to have always been, valid as if the provisions of the said section, as amended by this Act, had been in force at all material times when such power was exercised or duty was discharged.

Explanation.- For the purposes of this section, the terms “Board”, “Deputy Commissioner” and “Area Committee” shall have the meanings respectively assigned to them in the principal Act.

**THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
(AMENDMENT) ACT, 1980 [\[1\]](#)**

Act 11 of 1981

An Act further to amend the Madras Hindu Religious and Charitable Endowments Act 1951 .

Preamble .-WHEREAS it is expedient further to amend the Madras Hindu Religious and Charitable Endowments Act, 1951, for the purpose hereinafter appearing;

BE it enacted in the Thirty-first Year of the Republic of India as follows: -

1. *Short title*.- This Act may be called the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1980.

2. *Amendment of section 4* .-In section 4 of the Madras Hindu Religious and Charitable Endowments Act, 1951 (XIX of 1951), for clause (a), the following clause shall be substituted, namely:-

“(a) exempt from the operation of any of the provisions of this Act or of any rules made thereunder any religious or charitable institution or endowment, the administration of which is, for the time being vested in-

(i) the Official Trustee or in the Administrator General, or

(ii) any body corporate entrusted by law with the administration of religious institutions; or”.

ACT 31 OF 2008
THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS (AMENDMENT) ACT, 2008

An Act further to amend the Madras Hindu Religious and Charitable Endowments Act, 1951 and for certain matters connected therewith.

Preamble.- WHEREAS, it is expedient further to amend the Madras Hindu Religious and Charitable Endowments Act, 1951, for the purpose hereinafter appearing and for certain matters connected therewith;

BE it enacted on the Fifty-ninth Year of the Republic of India as follows:-

1. *Short title and commencement.-* (1) This Act may be called the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 2008.

(2) It shall be deemed to have come into force on the 9th day of January, 2008.

2. *Amendment of section 6.-* In section 6 of the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951) (hereinafter referred to as the principal Act),-

(1) for clause (2), the following clause shall be substituted, namely:-

“(2) "Assistant Commissioner" means the Assistant Commissioner appointed under sub-section (4) of section 8C;”;

(2) for clause (3), the following clause shall be substituted, namely:-

“(3) "Board" means, except for the purposes of Chapter XI, the Board constituted under sub-section (1) of section 7 of this Act;”;

(3) for clause (5), the following clause shall be substituted, namely:-

"(5) "Commissioner" means the Commissioner appointed under sub-section (1) of section 8C;"

(4) for clause (7), the following clause shall be substituted, namely:-

"(7) "Deputy Commissioner" means the Deputy Commissioner appointed under sub-section (4) of section 8C;"

(5) after clause (9), the following clause shall be inserted, namely:-

"9(a) "Malabar area" means the area comprised in the Malabar District referred to in sub-section (2) of section 5 of the States Re-organisation Act, 1956 (Central Act 39 of 1956)."

3. *Amendment of the Heading of Chapter II.* - In the heading of Chapter II of the Principal Act, for the words "The Commissioner and other Controlling Authorities", the words "The Board and its Officers" shall be substituted.

4. *Substitution of new section for section 7.* - , For section 7 of the principal Act, the following section shall be substituted, namely:-

"7. *Constitution of the Malabar Devaswom Board.* - (1) As soon as after the commencement of the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 2008, the Government shall, by notification in the Gazette, constitute a Board by name "the Malabar Devaswom Board."

(2) The Board shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of both movable and immovable properties and to enter into contracts and may sue and be sued in the name of the Board.

(3) The Board shall consist of the following nine Hindu members, namely:-

- (a) one philosopher of Hindu religion;
- (b) one social reformer of Hindu religion;
- (c) one member from any of the Temple Advisory Committees constituted under section 14;
- (d) one woman, wellversed in Hindu devotional songs;
- (e) one member from Scheduled Caste Communities;
- (f) one member from Scheduled Tribe Communities;
- (g) one woman member;

(h) two other members.

Explanation.- For the purpose of this section, "Scheduled Castes" and "Scheduled Tribes" shall have the same meaning as is assigned to them in clauses (24) and (25) respectively, of article 366 of the Constitution of India.

(4) The members mentioned in clauses (a) to (f) shall be nominated by the Hindus among the Council of Ministers of the State and the members mentioned in clauses (g) and (h) shall be elected by the Hindus among the Members of the Kerala Legislative Assembly as provided in section 7 I.

(5) The Hindus among the Council of Ministers of the State shall also nominate a member of the Board as its President.

(6) The head office of the Board shall be at Kozhikode.

(7) In the absence of a duly constituted Board, the Government may, by notification in the Gazette, appoint a Secretary to Government, who is a Hindu, as the Chief Commissioner to exercise all powers and perform all duties of the Board under this Act."

5. Insertion of new sections 7A to 7L.- After section 7 of the principal Act, the following sections shall be inserted, namely;-

"7A. Term of office of the members.-(1) Every member of the Board shall be entitled to hold office for a period of two years from the date of his nomination or election, as the case may be.

(2) A person who ceases to be a member of the Board by reason of expiration of his term of office shall, if he is otherwise qualified, be eligible for re-nomination or re-election:

Provided that such a member shall not be eligible for re-nomination or re-election consecutively.

7B. Qualification for membership. - A person shall be qualified for nomination or election as a member of the Board only if he,-

- (i) is a permanent resident of the Malabar area;
- (ii) professes the Hindu religion;
- (iii) is a believer of temple worship; and

(iv) has completed the age of fifty years in the case of male members and sixty years in the case of female members.

7C. *Oath by a member.* - Where a person has been elected or nominated as a member of the Board, before entering the office as a member, he shall take an oath before the Commissioner of the Board stating that he is a person professing Hindu religious rites and is a believer of God and temple worship.

7D. *Disqualification for membership.*- No person shall be eligible for nomination or election as a member of the Board, if he,-

- (i) is of unsound mind; or
- (ii) is an undischarged insolvent; or
- (iii) is an office-holder or a servant of the Government, a Local Authority, or a Devaswom Board; or
- (iv) is interested in an existing contract for the supply of any material to the Board or for executing any work on behalf of the Board; or
- (v) has been convicted by a criminal court for any offence involving moral turpitude; or
- (vi) is a Member of the Parliament or of the Legislature of any State or of a Local Self Government Institution; or
- (vii) has been removed from holding any office in pursuance of a court order; or
- (viii) involves in the business of production or sale of liquor.

7E. *Supervening disqualifications.*-(1) Where the Government are satisfied that a person elected or nominated as a member of the Board has become subject to any of the disqualifications specified in clause (i) to (viii) of section 7D or does any act prejudicial to the interest of the Board or absent himself from three consecutive meetings without any sufficient reason or ceases to profess the Hindu religion, it may, by order, for reasons to be stated therein, remove such member from office:

Provided that a member shall not be removed under this sub-section, unless he is given a reasonable opportunity of showing cause against his removal.

(2) A member of the Board may also be removed from his office by the Government on the ground of proved misbehaviour or incapacity, based

on a complaint received from a Hindu, after conducting a detailed inquiry in the prescribed manner.

Explanation.-If a member does any act, which is intended or is likely to endanger communal harmony or which tends to promote feelings of enmity or hatred among different classes of citizens, he shall, for the purpose of this sub-section, be deemed to be guilty of misbehaviour.

7F. Resignation by a member.-A member of the Board may, by writing under his hand, addressed to the Government Secretary in charge of Devaswom Department, resign his membership and the resignation shall take effect on the date of acceptance of the same by the Government.

7G. Filling up of temporary vacancies.-When the office of a nominated or elected member of the Board becomes vacant due to death, resignation, removal or otherwise, a new member shall be nominated or elected, as the case may be, in his place, in accordance with the provisions contained in this Act and such member shall hold office so long as the member, in whose place he is nominated or elected, would have held office, had such vacancy not occurred.

7H. Honorarium and travelling allowances of President and members.-The President and the members of the Board shall be entitled for a monthly honorarium at the rate of Rs. 5,000/- and Rs. 3,500/- respectively and for travelling allowance as payable to the Class I officers of the Government and shall not be eligible for any other perquisites or facilities:

Provided that nothing contained in this section shall prevent the Board from providing a conveyance facility to the President.

7 I. Procedure for election of the members of the Board. - (1) A meeting of the Hindus among the Members of the Legislative Assembly of the State shall be summoned under the authority of the Governor of Kerala by any person authorized in this behalf by the Governor, to meet at such time and place and on such date as may be fixed by him in this behalf, for the election of members to the Board.

(2) The election shall be held in accordance with the rules specified in the Schedule II, by the person commissioned by the Governor to preside over the meeting.

7J. Meetings of the Board.-(1) Meetings of the Board shall be convened by the Secretary of the Board on the direction of the President.

(2) Meetings of the Board shall be presided over by the President and in his absence by a member chosen by the members present from among themselves.

(3) The quorum for a meeting shall be five.

(4) In case of difference of opinion among the members, decisions shall be taken by a majority of votes, and where the votes are equally divided the President or the person presiding shall have and exercise a casting vote.

(5) The Secretary shall keep the minutes of the proceedings of each meeting in a book to be kept for the purpose which shall be signed by the President or the person presiding and the members present at such meeting.

7K. Validation of proceedings.-No act or proceedings of the Board shall be deemed to be invalid merely by reason of any defect in its constitution or on the ground that the President or any member thereof was disqualified for or had ceased to hold office or by reasons of such act or proceedings having been done or taken during the period of any vacancy in the office of the President or any member of the Board.

7L. Standing Committees of the Board.- (1) The Board shall constitute, for its proper functioning, the following Standing Committees with 3 members each, namely:-

(i) Standing Committee on Finance and Resource Mobilization;
(ii) Standing Committee on Works, Development and Environment;
(iii) Standing Committee on Establishment, Temple Arts and Devotional service;

(2) The Board shall nominate one member of each Standing Committee as its Chairman who shall preside over its meetings;

(3) The Board shall specify the various duties and responsibilities of the Standing Committees;

(4) The Standing Committees shall meet at least once in a month;

(5) The recommendations of the Standing Committees shall be unanimous and in case of any difference of opinion among the members in respect of any subject it shall be placed before the Board for decision."

6. *Substitution of new section for section 8.*- For section 8 of the principal Act, the following section shall be substituted, namely:-

"8. *Vesting of Power in the Board.*-All powers and duties under this Act, in respect of the various religious institutions of the Malabar area, that have been exercised or performed by the Commissioner, Deputy Commissioners, Assistant Commissioners and Area Committees before the commencement of the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 2008, shall vest in the Board, on its constitution."

7. *Insertion of new sections 8A to 8D.*- After section 8 of the principal Act, the following sections shall be inserted, namely;-

"8A. *Supervision and control by the Board.* – Subject to supervision and control of the Board, and other provisions of this Act, the Commissioner, Deputy Commissioners, Assistant Commissioners and Area Committees exercising any power or performing any duty under this Act, before the commencement of the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 2008, shall continue to exercise such powers and perform such duties, as officers of the Board, as if those powers are delegated to them by the Board.

8B. *Assumption of the direct administration of religious institutions, supervision of temple employees and welfare fund scheme.*- (1) The Board shall have the power to assume the direct management of any religious institution provided the trustees request the Board to take over its management unconditionally.

(2) The Board shall have the power to fix and regulate the service conditions and pay structure of the Officers and Employees of the temples from time to time and to supervise its implementation.

(3) The Board may maintain Welfare Fund Scheme for the benefits of the Officers and Employees of the temples in the manner as may be prescribed."

8C. *Officers and Employees of the Board.*- (1) The Government may appoint an officer not below the rank of a Joint Secretary to Government

who is professing Hindu religion and is a believer of God and temple worship, as the Commissioner of the Board on such terms and conditions as may be fixed by the Government, who shall also function as the Secretary of the Board.

(2) He shall be the Chief Executive Officer of the Board who shall implement all decisions of the Board.

(3) He shall submit reports to the Government, once in three months, with respect to the working of the Board.

(4) The Board may appoint such number of Deputy Commissioners, Assistant Commissioners, and such other officers and staff as are necessary for discharging its functions under this Act.

(5) The Board may create, with the approval of the Government, such number of posts of officers and employees of the Board, as it requires.

(6) The pay and allowances and other conditions of service of the officers and employees of the Board, appointed under sub-section (4), shall be such, as may be prescribed.

8D. Appointment to be made through Kerala Public Service Commission.-, All appointments of officers and employees of the Board, except the Commissioner, for which direct recruitment is resorted to, shall be made from a select list of candidates belonging to Hindu religion furnished by the Kerala Public Service Commission in accordance with the law made for the exercise of this additional function by the Kerala Public Service Commission. A Hindu member/members of the Public Service Commission may discharge the function of conducting interview in the process of selection of candidates for appointments. "

8. *Amendment of section 13.* - In section 13 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:-

“(1) Every Area Committee shall consists of the following members appointed by the Government, namely:-

- (a) one philosopher of Hindu religion;
- (b) one social reformer of Hindu religion;
- (c) one member from any of the Temple Advisory Committees constituted under section 14;

- (d) one member from Scheduled Caste or Scheduled Tribe Communities;
- (e) one woman member;
- (f) two other members.

(1A) The Government shall nominate one of the members as its Chairman."

9. *Substitution of new section for section 14.* - For section 14 of the principal Act, the following section shall be substituted, namely:-

"14. *Temple Advisory Committees* - (1) For the purpose of ensuring the adequate participation of Hindu devotees, a committee may be constituted for each temple in the name "(name of the temple) Temple Advisory Committee", not inconsistent with the existing custom and practices.

(2) The Temple Advisory Committees formed under sub-section (1) shall be approved by the Board.

(3) The composition of a Temple Advisory Committee under sub-section (1) shall be in such manner as may be prescribed."

10. *Amendment of section 15.*- In section 15 of the principal Act, after the words "Area Committees" the words "and Temple Advisory Committees" shall be inserted.

11. *Amendment of section 16.* -In section 16 of the principal Act, for the words "Area Committee" wherever they occur, the words "Area Committee or Temple Advisory Committee" shall be substituted.

12. *Insertion of sections 19A and 19D.* - After section 19 of the principal Act, the following sections shall be inserted, namely:-

"19A. *Transfer of files and proceedings.* - (1) Notwithstanding anything contained in this Act, the Board shall have the power to call for any file or proceedings pending before any of its officers or Area Committees and either dispose it of by itself or transfer it to another officer of the Board for disposal.

(2) Any party aggrieved by an order of the Board under sub-section (1), not being an order against which a suit or an appeal to a court is provided under this Act may appeal to the State Government within three months from the date of receipt of order by him:

Provided that the State Government shall not pass any order prejudicial to any party without giving him a reasonable opportunity of being heard.

19B. *Appointment of Commission.*-(1) Notwithstanding anything contained in this Act, the Government may, by notification in the Gazette, appoint a Commission to enquire into and report on the allegations, if any, of any irregularities, corruption, maladministration or misappropriation of funds by the Board.

(2) The Commission appointed under sub-section (1) shall be a sitting Judge of the High Court of Kerala, who is a Hindu, in consultation with the Chief Justice:

Provided that, if the service of a sitting Judge of the High Court of Kerala is not available, a retired Judge of the High Court of Kerala, who is a Hindu, shall be appointed as such Commission.

(3) The term and other conditions of appointment of the Commission shall be such as may be specified in the order appointing such Commission.

19C. *Power of the Government to dissolve or supersede the Board.*-(1) If in the opinion of the Government, the Board persistently makes default in the performance of the duties imposed on it by or under this Act or exceeds or abuses its powers, the Government may, by notification, specifying the reason for so doing, declare the Board to be in default, or to have exceeded or abused its powers, as the case may be; and -

(a) that on the date to be specified in the order the office of the members of the board shall be deemed to be vacated and require a fresh election to be held on or before the said date; or

(b) direct that the Board shall be superseded for such period, as may be specified in the notification.

(2) The members of the Board who vacate office by reason of a declaration made under sub section(1) shall not, unless the Government otherwise direct, be deemed disqualified for re-election or re- appointment.

19D. *Consequences of supersession.*- Where an order of the supersession has been passed under section (1) of 19C the following consequences shall ensue, namely:-

(a) all the members of the Board shall from a date to be specified in the order, vacate their offices as such members;

(b) all the powers and duties which under the provisions of this Act are to be exercised and performed by the Board or the President shall, during the period of supersession, be exercised and performed by such person or persons as the Government may direct; and

(c) before the expiration of the period of supersession, election shall be held and appointment made for the purpose of reconstituting the Board.

13. *Insertion of new Chapter.* - After Chapter II of the Principal Act, the following Chapter shall be inserted, namely: -

“CHAPTER II A

ABOLITION OF HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS (ADMINISTRATION) DEPARTMENT AND TRANSFER OF THEIR ASSETS, LIABILITIES AND STAFF TO THE BOARD

19E. *Transfer of assets and liabilities of the Hindu Religious and Charitable Endowments (Administration) Department to the Board.*-(1) On constitution of the Board under section 7, the existing Hindu Religious and Charitable Endowment (Administration) Department (hereinafter referred to as the abolished Department) shall stand abolished and all its assets and liabilities shall stand transferred to, and vest in the Board, constituted under this Act.

(2) The assets referred to in sub-section (1) shall be deemed to include all rights and powers and all properties, whether movable or immovable, belonging to or vested in that Department or under their management and control, their funds, cash balance, if any, investments, deposits and all other interests or rights in or arising out of such property and all books of accounts or documents kept or maintained by them and its

liability shall be deemed to include all debts, liabilities and obligations of whatever kind existing and pertaining to that Department at the time of its abolition.

19F. *Effect of vesting of assets and liabilities in the Board.*-(1) Unless otherwise expressly provided by or under this Act, all contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the abolition of the Department and to which the Department, or any of its officers or authorities is a party or which is in their favour shall be of full force and effect against or in favour of the Board constituted under this Act, and may be enforced or acted upon as fully and effectually as if, instead of the abolished Department, or of its officers or authorities the Board had been a party thereto or as if they had been entered into or issued in favour of the Board.

(2) If any suit, appeal or other legal proceedings of whatever nature by or against the abolished Department is pending, the same may be continued, prosecuted and enforced by or against the Board.

19G. *Employees of the abolished Department.*-(1) On constitution of the Board under section 7, every full-time employee of the abolished Department shall be deemed to be continued as a Government employee for all practical purposes including pay and allowances and pensionary benefits as a vanishing category in the Board and shall hold office therein with the same terms and conditions of service and with the same rights and privileges, if any, as if he would have held the same if the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 2008, had not been enacted, until altered by the Board.

(2) Nothing in sub-section (1) shall prevent an employee of the abolished Department from exercising option to serve in other Departments of the Government, by protecting their pay and allowances within such period as may be specified by the Government.

(3) The Government may, after consulting the Board, direct, by general or special order, that the employees, who have exercised option with in the time specified by the Government under sub-section (2), and specified in the order shall stand allotted to serve in such other departments of Government with effect from such date as may be specified therein.

(4) With effect from the date specified in the order under sub-section (3), the person specified in such order and allotted to serve in other departments of the Government shall cease to be employees of the Board.

(5) Every person who becomes an employee of the Government under sub-section (4) shall hold his office therein, with such designation as the Government may determine and with the same remuneration and on the same terms and conditions of service and with same rights and privileges, if any, as he would have held the same if the Madras Hindu Religious and Charitable Endowments (Amendment) Act, 2008, had not been enacted and shall continue to do so unless and until his remuneration and terms and conditions of service are duly altered by the Government.

(6) Notwithstanding anything contained in the foregoing provisions of this section, the remuneration and other terms and conditions of service of an employee shall not be varied to his disadvantage.

(7) The liability to pay pension and gratuity, if any, to the employees referred to in sub-section (1), except in respect of those employees transferred to other Departments accepting their option under sub-section (3), shall be the liability of the Board.

(8) If any question arises as to whether any person was a full-time employee of the abolished Department, the question shall be referred to the Government, whose decision thereon shall be final.

19H. *Transfer of accumulation in Provident Fund and other like funds.*-The sums standing to the credit of the provident fund accounts and to the superannuation fund and other like funds, if any, of the persons referred to in sub-section (1) of section 19E except in respect of those employees transferred to other Departments accepting their option under sub-section (3) shall be transferred to the Board by the abolished Department, and the liability in respect of the said funds, shall be the liability of the Board."

14. *Amendment of section 21.*- In sub-section (1) of section 21 of the principal Act, for the words "The Commissioner, Deputy Commissioner, Assistant Commissioner or such officers or servants of a religious institution as may be authorized by the Commissioner," the words "Any Member of the Board or Area Committee or Temple Advisory Committee or the Commissioner, Deputy Commissioner or Assistant Commissioner or such

officers or employees of the Board or of a religious institution as may be authorized by the Board, the Commissioner” shall be substituted.

15. *Amendment of section 21A.* - In section 21A of the principal Act.-

(i) in the marginal heading, for the words “Commissioner etc” the words “The President, Member or Commissioner etc.,” shall be substituted;

(ii) for the words “Commissioner, Deputy Commissioner, Assistant Commissioner, every member of an Area Committee and every other persons exercising the powers of superintendence or control” the words “The President, Member of the Board or of the Area Committee or of the Temple Advisory Committee, Commissioner, Deputy Commissioner, Assistant Commissioner and every other person exercising the powers of superintendence or control or advice” shall be substituted.

16. *Amendment of section 23.* - In section 23 of the principal Act, after the word “Government” the word “Board” shall be inserted.

17. *Amendment of section 76.* - In section 76 of the principal Act,-

(i) for the words “ State Government” wherever they occur, the word “Board” shall be substituted.

(ii) sub-section (4) shall be deleted.

18. *Amendment of section 77.* - In section 77 of the principal Act, after the words “State Government” the word “Board” shall be inserted.

19. *Amendment of section 78.* - In sub-section (8) of section 78 of the principal Act, after the words “State Government” occurring in two places, the words “or Board” shall be inserted.

20. *Amendment of the heading of Chapter IX.-*, In Chapter IX of the principal Act, for the heading “Endowments Administration Fund” the heading “Malabar Devaswom Fund” shall be substituted.

21. *Substitution of new section for section 80.* -For section 80 of the principal Act, the following section shall be substituted, namely.-

“80. *Grants by the Government.*-The State Government shall, after due appropriation made by the State Legislative Assembly by law in this behalf,

pay to the Board by way of grants, such sums of money as the State Government may think fit, for being utilized for the purposes of this Act."

22. *Substitution of new section for section 81.* -For section 81 of the principal Act, the following section shall be substituted, namely.-

"81. *Funds of the Board.* – (1) Subject to the provisions of this Act, the Board shall constitute a fund called the "Malabar Devaswom Fund" and on such constitution the "Hindu Religious and Charitable Endowments Administration Fund" vested in the Board shall be credited in the Fund so constituted by it.

(2) The Board shall account the following items of receipt under their respective accounts, namely:-

- (a) all contributions payable under section 76(1) and the further sums payable under section 76(2);
- (b) grants and loans, received from the Government;
- (c) grants and donations, received from the public and other bodies and institutions;
- (d) the money realized from time to time by the sale of movable properties belonging to the Board;
- (e) profits and interest received from investments of funds of the Board; and
- (f) all other moneys belonging to or other income received by the Board."

23. *Insertion of new sections 81A to 81C.*- After section 81 of the principal Act, the following sections shall be inserted, namely:-

"81A. *Audit.*- (1) The Board shall keep regular accounts of all receipts in and disbursements from the Fund.

(2) The accounts of the Board shall be audited annually.

(3) The audit shall be conducted by the Director of Local Fund Audit in accordance with the provisions contained in the Kerala Local Fund Audit Act, 1994 (14 of 1994).

81B. *Deposit and investment of funds.*- Subject to the provisions of this Act, the Board may deposit its funds in any Nationalized Bank, Co-operative Bank or Government Treasury or invest the same in any security of the State Government or the Government of India.

81C. *Budget and Administration Report.* - (1) The Board shall, in each year prepare a Budget for the next financial year before the expiry of three months of the preceding financial year showing the probable receipts and disbursements of the temples, institutions and endowments under the management of the Board during the financial year.

(2) The Board shall within two months after the expiry of each financial year prepare an annual administration report for that year and submit within one month thereafter to the Government such number of copies thereof, as the Government may direct.

(3) The Government shall place the Administration Report before the Legislative Assembly within one month from the date of its receipt.”.

24. *Insertion of new section 94A.* - After section 94 of the principal Act, the following section shall be inserted, namely.-

“94A. *Applicability of the Kerala Land Conservancy Act, 1957.* - All lands belonging to the Board and religious institutions shall be deemed to be the property of the Government for the purpose of the Kerala Land Conservancy Act, 1957 (8 of 1958) and all the provisions of that Act shall, so far as they are applicable , apply to such lands.”.

25. *Amendment of section 99.* -In sub section (1) of section 99 of the principal Act, after the words “The State Government may call for and examine the record of the” the words “Board or” shall be inserted.

26. *Insertion of new section 100A.* - In Chapter XI of the principal Act, before section 101, the following section shall be inserted, namely:

“100A. *Definition.* - For the purposes of this Chapter “Board” means the Board constituted under section 10 of the Madras Hindu Religious Endowments Act, 1926.”

27. *Insertion of new Schedule.*- After Schedule I of the principal Act, the following Schedule shall be inserted, namely:-

"SCHEDULE-II
(See section 7 I(2))

1. The person commissioned by the Governor to preside over the meeting for the election of members to the Board (hereinafter in these rules referred to as the Chairman) shall fix the date, the time and the place for the presentation of nomination papers and intimate the Hindu Members of the Legislative Assembly with the details of the number and category of seats to be filled up by the election before seven clear days from the date fixed for the presentation of nomination papers.
2. Any Hindu Member of the Legislative Assembly of the State may nominate a qualified person belonging to the category of vacancy, who is not subject to any disqualification for election as a member of the Board by delivering to the Chairman, between the hours fixed by the Chairman for the receipt of nomination papers, a nomination paper signed by the proposer and another Hindu member of the Legislative Assembly of the State as seconder and stating the name of the person nominated. The person nominated shall affix his signature to the nomination paper before it is delivered to the Chairman, stating that he is willing to serve as a member of the Board, if elected.
3. The Chairman shall, as soon as the time fixed for the receipt of nomination papers is over, scrutinize the nomination papers in the presence of the candidates, proposers or seconders present and reject any invalid nomination.

4. Any person, who has been nominated may withdraw his candidature at any time before the Chairman proceeds to hold the election.
5. (1) If there is only one candidate for a seat, the Chairman shall declare him duly elected.
 - (2) If the number of contesting candidates for a seat is more than one, a poll shall be taken on the same day or another day as may be fixed by the Chairman.
 - (3) If there is no candidate for a seat, election proceedings shall be started afresh for filling up the vacancy in all respects as if for a new election.
6. For the purpose of these rules, Member of the Legislative Assembly shall mean a Member who has taken the Oath prescribed for the Members of the Legislative Assembly and signed the register of Members of the Legislative Assembly.
7. Every Hindu Member of the Legislative Assembly shall have one vote for the election to the seat of woman member under clause (g) of sub-section (3) of section 7 of the Act and one vote each for the seats of the other two members under clause (h) thereof.
8. The poll shall be held on the date, time and place fixed by the Chairman and the counting of votes shall take place immediately after the close of the polling.
9. The candidate for each seat who obtained the highest number of votes shall be declared elected by the Chairman.
10. In the case of equal number of votes, the result shall be decided by draw of lots."

28. *Repeal and Saving.*- (1) The Madras Hindu Religious and Charitable Endowments (Amendment) Ordinance, 2008 (36 of 2008) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.