

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

Part II of December 11, 2015

SUPPLEMENT

(Issued on 14. 12. 2015)



**THERAVADI BHIKKU KATHIKAWATH
(REGISTRATION)**

A

BILL

to provide for the formulation and registration of Kathikawath in relation to Nikaya or Chapters of Theravadi Bhikkus in Sri Lanka; to provide for every Bhikku to act in compliance with the provisions of the Registered Kathikawath of the Nikaya or Chapter which relates to such Bhikku; to impose punishment on Bhikkus who act in violation of the provisions of any Registered Kathikawath, and for matters connected therewith or incidental thereto.

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Theravadi Bhikku Kathikawath (Registration)

L.D.—O. 15/2014.

AN ACT TO PROVIDE FOR THE FORMULATION AND REGISTRATION OF KATHIKAWATH IN RELATION TO NIKAYA OR CHAPTERS OF THERAVADI BHIKKUS IN SRI LANKA; TO PROVIDE FOR EVERY BHIKKU TO ACT IN COMPLIANCE WITH THE PROVISIONS OF THE REGISTERED KATHIKAWATH OF THE NIKAYA OR CHAPTER WHICH RELATES TO SUCH BHIKKU; TO IMPOSE PUNISHMENT ON BHIKKUS WHO ACT IN VIOLATION OF THE PROVISIONS OF ANY REGISTERED KATHIKAWATH, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

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

1. This Act may be cited as the Theravadi Bhikku Kathikawath (Registration) Act, No. of 2015. Short Title.

5 2. (1) The Karaka Sangha Sabha of each Theravadi Bhikku Nikaya or Chapter (hereinafter referred to as the “Nikaya or Chapter”) may for the purpose of this Act formulate and adopt a Kathikawath pertaining to that Nikaya or Chapter. Formulation of Kathikawath.

10 (2) Every Kathikawath referred to in subsection (1) shall, *inter alia*, have provisions pertaining to:—

- (a) the composition and functions of the Karaka Sangha Sabha of the relevant Nikaya or Chapter;
- 15 (b) a code of conduct and discipline to be strictly followed by a bhikku in conducting himself;
- (c) the manner of conducting inquiries in case of violations by any bhikku of the code of conduct and discipline referred to in paragraph (b); and
- (d) punishments for such violations.

2 *Theravadi Bhikku Kathikawath (Registration)*

(3) The code of conduct and discipline referred to in paragraph (b) of subsection (2) may contain provisions pertaining to a bhikku—

- 5 (a) engaging in or carrying out occult practices or similar activities and giving publicity to such activities;
- (b) involving in trade or business activities;
- (c) obtaining driving licences and driving vehicles;
- 10 (d) engaging in any employment in the public or private sector other than in the fields of education, social services or religious affairs; and
- (e) engaging in activities unsuitable for a bhikku in a manner contrary to bhikku *vinaya* in public places.

15 (4) For the purposes of paragraph (d) of subsection (2) the following punishments may be included in a Kathikawath:—

- (a) temporary expulsion from the residing temple;
- (b) permanent expulsion from the residing temple;
- (c) temporary removal from the office of *viharadhipathy*;
- 20 (d) permanent removal from the office of *viharadhipathy*;
- (e) expulsion from the studentship;
- (f) expulsion from the relevant Nikaya or Chapter; and
- (g) cancellation of the bhikku registration.

3. (1) The Registrar Thero of the relevant Nikaya or Chapter shall submit the Kathikawath formulated and adopted under section 2, to the Commissioner-General for registration along with a duly completed application and a statement signed by the most Venerable Mahanayake Thero of such Nikaya or Chapter to the effect that the Kathikawath was duly adopted by the Karaka Sangha Sabha.

Registrar to submit the Kathikawath to Commissioner-General for registration.

(2) The form and manner of such application shall be prescribed.

10 4. (1) The Commissioner-General shall submit the Kathikawath applied to be registered to a Panel of Experts appointed under section 5 to examine whether such Kathikawath—

Commissioner-General to submit Kathikawath to Panel of Experts.

(a) contravenes the provisions of any written law; and

15 (b) is in compliance with Buddhist *dhamma vinaya* and customs.

(2) Where the Panel of Experts is of the opinion that the provisions of a Kathikawath contravenes any of the requirements stipulated in subsection (1), it shall communicate such opinion to the Commissioner-General who shall inform the same to the Registrar Thero of the relevant Nikaya or Chapter in order to revise the relevant Kathikawath to be in compliance with such requirements and resubmit it to the Panel of Experts for examination.

25 (3) Where the provisions of the Kathikawath is in compliance with the requirements stipulated in subsection (1), the Panel of Experts shall issue a certificate to that effect to the Commissioner-General.

30 5. The Minister shall in consultation with the most Venerable Mahanayake Theros of Three Nikaya, appoint a five member Panel of Experts which shall consist of:—

Appointment of Panel of Experts.

(a) three Buddhist bhikkus; and

4 *Theravadi Bhikku Kathikawath (Registration)*

(b) two Attorneys-at-law conversant with the disciplinary rules pertaining to Buddhist bhikkus,

for the purpose of examining any Kathikawath submitted under section 4 for any contravention of the requirements
5 stipulated in subsection (1) of that section.

6. (1) Upon receipt of the certificate of the Panel of Experts, the Commissioner-General shall register the Kathikawath. Registration
of
Kathikawath.

(2) Upon the registration of the Kathikawath the
10 Commissioner-General shall issue a certificate of registration and:—

(a) hand over the certificate of registration together with a copy of the registered Kathikawath to the most Venerable Mahanayake Thero of the relevant
15 Nikaya or Chapter, in person; and

(b) send a copy of such certificate of registration to the Registrar Thero by registered post.

7. (1) The relevant Karaka Sangha Sabha of any Nikaya or Chapter may where necessary adopt amendments to the
20 Kathikawath registered under section 6. Registration
of
amendments
to
Kathikawath.

(2) The procedure set out in sections 3 and 4 of this Act shall be applicable for the registration of any amendment to a Kathikawath.

(3) Every application for registration of any amendments
25 to a registered Kathikawath shall be in such form as may be prescribed.

8. The Commissioner-General shall maintain a register for the registered Kathikawath and the amendments to the registered Kathikawath. Commissioner-
General to
maintain a
register of
registered
Kathikawath.

9. Where a Kathikawath pertaining to a Nikaya or Chapter is registered under this Act—

Bhikku shall comply with the provisions of the Kathikawath.

5 (a) the provisions of such Kathikawath shall be applicable to every bhikku who belongs to such Nikaya or Chapter; and

(b) every bhikku belonging to such Nikaya or Chapter shall strictly adhere to and conduct himself in accordance with, the provisions of such Kathikawath.

10 10. (1) Where a bhikku violates the provisions of the registered Kathikawath of the Nikaya or Chapter to which such bhikku belongs, the Karaka Sangha Sabha of the relevant Nikaya or Chapter shall hold an inquiry in respect thereof.

Inquiry to be held regarding contravention of the provisions of the Kathikawath.

15 (2) At the inquiry specified in subsection (1), the bhikku alleged to have violated the provisions of such Kathikawath shall be given an opportunity to be heard.

20 (3) The Registrar thereof of the relevant Nikaya or Chapter shall handover the decision of the Karaka Sangha Sabha to the bhikku alleged to have violated the provisions of a registered Kathikawath personally or inform him of such decision by sending it to him through registered post.

25 11. (1) The bhikku alleged to have violated the provisions of a registered Kathikawath shall act in accordance with the decision of the Karaka Sangha Sabha.

To act contrary to the decision of the Karaka Sangha Sabha to be an offence.

30 (2) A bhikku who fails or refuses to comply with such decision shall be guilty of an offence under this Act and shall on conviction after summary trial by a Magistrate be liable to a fine not less than rupees fifty thousand or to imprisonment for a term not exceeding six months or both such fine and imprisonment.

12. A bhikku against whom an inquiry is pending under section 10 or who is guilty of an offence under this Act shall not be accepted or registered as a bhikku by any Nikaya or Chapter other than the Nikaya or Chapter to which such bhikku belongs.

Prohibition of changing the Nikaya or Chapter by an alleged violator.

13. (1) Minister may in consultation with the most Venerable Mahanayake Theros of the three Nikaya make regulations for the purpose of implementation of or giving effect to the principles or provisions of this Act.

Regulations.

10 (2) In particular and without prejudice to the generality of the powers specified in subsection (1), the Minister may make regulations in respect of the following matters:-

15 (a) any matter required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made;

(b) to specify the colour of the robe to be used by the bhikkus, as determined by the Mahanayaka Theros of the Three Nikaya; or

20 (c) to prescribe the Forms required for the purpose of this Act.

(3) Every regulation made under subsection (1) shall be published in the *Gazette*, and shall come into operation on the date of such publication, or on such later date as may be specified in the regulation.

25 (4)(a) Every regulation made under subsection (1) shall as soon as convenient after its publication in the *Gazette*, be brought before Parliament for its approval.

30 (b) Any regulation which is not so approved shall be deemed to be rescinded as from the date of said disapproval but without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation is deemed to be so rescinded shall be published in the *Gazette*.

5 **14.** (1) Every document duly signed and certified by the Commissioner-General shall without any evidence to prove the signatures contained therein as due signatures and without such officer being called as a witness, shall be admissible in evidence in any court and shall be *prima facie* evidence of the matters stated therein, until the contrary is proved.

Proof of documents issued by the Commissioner-General.

10 (2) Where any person alleges that any document specified in subsection (1) is a false document or the signatures contained therein are false signatures, the burden of proof of such fact shall lie with that person.

15 (3) For the purposes of this section, 'document' includes any file, order, directive, report or any other relevant writing.

15. 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.

16. In this Act, unless the context otherwise requires— Interpretation.

20 "Bhikku" shall have the same meaning assigned to it under the Buddhist Temporalities Ordinance (Chapter 318);

25 "Temple" means, any chethiya, Stupa, bhikku residence or one, two or all three Tripple Stupas called "Shareerika", "Paribhogika" and "Uddesika" established according to the Buddha's teaching or a Buddhist sacred place situated in a public place venerated and warshipped by the general public;

30 "Chapter" means, any Chapter established under any of the three Thervadi Bhikku Nikaya in Sri Lanka;

8 *Theravadi Bhikku Kathikawath (Registration)*

“Commissioner-General” means, the Commissioner-General of Buddhist Affairs;

5 “Karaka Sangha Sabha” means, Sangha Sabha elected for the administrative purpose of a Theravadi Bhikku Nikaya or Chapter;

“Kathikawath” includes any amendment made to such Kathikawath;

“Minister” means, the Minister assigned to the subject of Buddhist Affairs;

10 “Registrar” means, the Secretary or the joint Secretary of a Nikaya or Chapter who is a member of the Karaka Sangha Sabha of the said Nikaya or Chapter;

15 “Theravada Bhikku Nikaya” means, the three Nikayas adopted and accepted in Sri Lanka in accordance with the Theravadi tradition as “Shyamopali Maha Nikaya”, “Sri Lanka Amarapura Maha Nikaya” and “Sri Lanka Ramagnna Maha Nikaya”.

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