# The Tamil Nadu Aided Institutions (Prohibition of Transfers of Property) Act, 1948

Act 14 of 1948

Keyword(s):
Institution, Manager, Transfer, Land and Building

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# [1][TAMIL NADU] ACT No. XIV OF 1948[2].

[THE [1](TAMIL NADU) AIDED INSTITUTIONS (PROHIBITION OF TRANSFERS OF PROPERTY) ACT, 1948.]

*(Received the assent of the Governor-General on the 7th June 1948 ; first published in the Fort St. George Gazette on the 15th June 1948.)*

**An Act to prohibit transfers of certain lands and buildings by managers of educational and other institutions in the [3][State of Tamil Nadu].**

WHEREAS it is expedient to prohibit transfers by managers of educational and other institutions in the [1][State of Tamil Nadu], of lands and buildings acquired with the aid of Government grants, or from the Government ; It is hereby enacted as follows :—

**1.** (1) This Act may be called the [1][Tamil Nadu] Aided Institutions (Prohibition of Transfers of Property) Act, 1948. *short title, extent and commencement.*

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1 These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

2 For Statement of Objects and Reasons, see *Fort St. George Gazette*, dated the 13th January 1948, Part IV-A, pages 41-42.

This Act was extended to the Kanyakumari district and the Shencottah taluk of the Tirunelveli district by section 3 of, and the First Schedule to, the Tamil Nadu (Transferred Territory) Extension of Laws Act, 1960 (Tamil Nadu Act 23 of 1960), repealing the corresponding law in force in that territory.

This Act was extended to the merged territory of Pudukkottai by section 2 of the Tamil Nadu Aided Institutions (Prohibition of Transfers of Property) (Extension to Pudukkottai) Act, 1961 (Tamil Nadu Act 54 of 1961), repealing the corresponding law in force in that territory.

3 This expression was substituted for the expression "Province of Madras" by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.

(2) It extends to the whole of the [1][State of Tamil Nadu].

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) " Government " means the [2](State) Government ;

(2) " institution " means—

(*a*) any college, school or other place in the [1][State of Tamil Nadu] which is intended for an educational purpose and includes libraries, playgrounds, hostels and quarters for the residence of teachers and servants ;

(*b*) any hospital, dispensary or nursing home in the [3](State) and includes quarters for the residence of doctors, nurses and servants ;

(*c*) any other institution or [4][class of institutions] in the [3](State) notified by the Government in the *Fort St. George Gazette* ;

(3) " manager " means the owner, trustee or other person who has power to transfer any land or building belonging to an institution, and includes a local authority ;

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[1] This expression was substituted for the expression " State of Madras " by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

[2] This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

[3] This word was substituted for the word " Province " by *ibid.*

[4] These words were substituted for the words " class of institution " by section 4 of, and the Third Schedule to, the Tamil Nadu Repealing and Amending Act, 1957 (Tamil Nadu Act XXV of 1957).
In so far as this Act applies to the added territories, the words " class of institutions " were substituted for the words "class of institution " by section 4 of, and the Second Schedule to, the Tamil Nadu (Added Territories) Extension of Laws (No.2) Act, 1961 (Tamil Nadu Act 39 of 1961).

(4) " transfer " includes sale, exchange, mortgage, [1](charge), lease or gift.

Prohibition of transfer of lands and buildings without permission from Government.

3. (1) Where before or after the commencement of this Act—

(*a*) any land or building has been acquired, constructed, improved, or altered for the purposes of any institution, with the aid of any grant made from the [2]revenues of the Government, or

(*b*) any land or building has been transferred by the Government for use for the purposes of any institution,

then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to the land or building, it shall not be transferred without the permission of the Government under sub-section (2) ; nor shall the land or building be used except for the purposes of the institution or purposes similar thereto or be kept vacant without being used for any purpose, without the permission of the Government.

(2) The Government may, in their discretion, by order, permit the transfer of any such land or building if—

(i) the transfer is made in furtherance of the purposes of the institution or of similar purposes approved by the Government, and the assets resulting from the transfer are to be wholly utilized in furtherance of the said purposes ;

(ii) the transfer is made only in part in furtherance of the purposes aforesaid, provided repayment is made to the Government of such portion as the Government may deem proper in the circumstances of the case, of the grant referred to in sub-section (1), clause (*a*).

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[1] This word was inserted by section 2 of the Madras Aided Institutions (Prohibition of Transfers of Property) Amendment Act, 1950 (Madras Act XXXIII of 1950).

[2] Now the Consolidated Fund of the State Government.

or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be ;

(iii) the transfer is made for any other valid reason, provided repayment is made to the Government in full of the grant referred to in sub-section (1), clause (*a*), or of the current market value of the land or building referred to in sub-section (1), clause (*b*), or of both, as the case may be.

*Explanation.*—When granting permission under clause (i) or (ii) for the transfer of any land or building, the Government may impose such conditions as they deem fit to ensure that the assets resulting from the transfer are utilized wholly or in part, as the case may be, in furtherance of the purposes referred to in those clauses ; but a contravention of any such condition imposed on the transferor shall not invalidate the transfer.

(3) If any such land or building is transferred without such permission, the transfer shall be null and void.

Consequences of breach of provisions of section 3.

**4.** If, in any case, the Government, after giving the manager of the institution concerned a reasonable opportunity to make his representations in regard to the matter, are satisfied that the provisions of section 3, sub-section (1), have been contravened in respect of any land or building, they may, by order—

(*a*) if the land, or the land on which the building stands, belonged to the Government and was transferred by them for the purposes of the institution, direct the Collector to take possession of the land and of the building, if any, standing thereon, or at their option, direct the manager to pay to them in full the current market value of the land (together with that of the building where it was also transferred by them) and also the amount of the grant, if any, made by the Government for improving, altering or constructing the land or building ;

(*b*) if the land, or the land on which the building stands, did not belong to the Government, direct the manager to repay in full the grant made by the Government, or at their option, direct the Collector to take possession of the land and of the building, if any, standing thereon, in which case, the Government shall pay to the manager any amount spent by him or his predecessors-in-title from the funds of the institution for the purpose of acquiring the land and constructing or acquiring the building, if any, thereon.

Effect of orders under sections 3 (2) and 4.

5. (1) Every order passed by the Government under section 3 (2) or 4 shall, subject to the provisions of sub-sections (2) and (3), be final and shall not be liable to be questioned in any Court of Law.

(2) (*a*) The manager of the institution in respect of which such an order is passed, not being a local authority, may, on the ground that the amount repayable or payable by or to him has been wrongly fixed in the order, apply to the District Judge having jurisdiction over the area in which the property in question is situated or if the property is situated in the presidency-town, to the Principal Judge of the Madras City Civil Court, for fixing such amount correctly in accordance with the provisions of section 3 (2) or (4), as the case may be.

(*b*) Such application shall be made within sixty days from the date on which the order is communicated to the manager.

(3) The District or City Civil Court Judge shall determine the amount which is properly repayable or payable by or to the manager in accordance with the provisions of section 3 (2) or 4, as the case may be, and such determination shall be final and shall not be liable to be questioned in any Court of Law.

**Land or building to vest in Government absolutely on possession being taken.**

**6.** (1) When, in pursuance of an order under section 4, the Collector takes possession of any land or building by himself or through another, it shall vest absolutely in the [1](Government) free from all encumbrances other than those existing at the commencement of this Act or created with the permission of the Government after such commencement.

(2) If the Collector or any person authorized by him in this behalf is opposed or impeded in taking possession of any land or building under this Act, he shall, if he is a Magistrate, enforce the surrender of such land or building to himself; and, if he is not a Magistrate, he shall apply to a Magistrate, or within the presidency-town, to the Commissioner of Police, and such Magistrate or Commissioner shall enforce the surrender of the land or building to the Collector.

(3) Whoever opposes or impedes the Collector or any person authorized by him in taking possession of any land or building under this Act shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

(4) Any land or building which vests in the [1](Government) under sub-section (1) shall be used by the Government, so far as may be, only for purposes similar to those for which it was being used before such vesting.

**Recovery of sums due under Act.**

7. Any sum required to be repaid or paid to the Government in pursuance of section 3, 4 or 5 may, without prejudice to any mode of recovery provided in any other law for the time being in force, be recovered from the properties of the institution or from the manager thereof as if it were an arrear of land revenue due from such institution or manager.

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[1] This word was substituted for the word "Crown" by the Adaptation Order of 1950.

[1][7-A. (1) No land or building referred to in section 3 (1) shall be liable to be attached, sold, or made subject to a charge by any court whether in execution of a decree or order or otherwise, unless the person seeking such relief from the court has obtained the permission of Government to do so and files such permission in Court. Court not to attach, sell, etc., without the permission of the Government.

(2) When granting such permission, the Government may impose such conditions as they deem fit.

(3) If any such land or building is attached or sold, or a charge is created thereon by any court without the permission of the Government having been obtained and filed as aforesaid or if any condition imposed by them when granting such permission is contravened, then, the attachment, sale or charge, as the case may be, shall be null and void.]

8. (1) The Government may, by notification in the *Fort St. George Gazette*, make rules not inconsistent with this Act for carrying into effect the purposes thereof. Rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the court-fees payable on the applications referred to in section 5, sub-section (2) ;

(*b*) the procedure to be followed in respect of such applications ;

(*c*) the payment of the costs incurred by the parties, in connexion with such applications.

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1 This section was inserted by section 3 of the Madras Aided Institutions (Prohibition of Transfers of Property) Amendment Act, 1950 (Madras Act XXXIII of 1950).