

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

*————————*

**JUDICATURE(AMENDMENT)**

**A**   
**BILL**

**to amend the Judicature Act, No. 2 of 1978**

*————————*  
 *Presented by the Minister of Justice, Prison Affairs and*  *Constitutional Reforms on 31st of August, 2022*  (Published in the Gazette on August 10, 2022) *Ordered by Parliament to be printed*  
 *————————*  
**[Bill No. 144]**   
 PRINTEDATTHEDEPARTMENTOFGOVERNMENTPRINTING, SRILANKA

TOBEPURCHASEDATTHEGOVERNMENTPUBLICATIONSBUREAU, COLOMBO5

**Price : Rs. 45.00**  **Postage : Rs. 15.00**

*This Bill can be downloaded from* www.documents.gov.lk 

*STATEMENT OF LEGAL EFFECT*

*Clause 2 :* This clause amends section 2 of the Judicature Act, No. 2 of 1978 (hereinafter referred to as the “principal enactment”) and the legal effect of that section as amended is to include the High Courts for the Provinces established by Article 154P of the Constitution and the Small Claims Courts as Courts of First Instance.

*Clause 3 :* This clause replaces section 5 of the principal enactment and the legal effect of that section as replaced is to establish in each judicial district of Sri Lanka a “District Court” which shall be deemed to be “a Family Court” or “a Small Claims Court” as the case may be and Magistrate’s Court and Primary Court and to appoint a “District Judge”,“Judge of the Family Court”, “Judge of the Small Claims Court”, “Magistrate” and “Judge of the Primary Court” respectively.

*Clause 4 :* This clause replaces section 5B of the principal enactment and the legal effect of that section as replaced is to enable the Judicial Service Commission to appoint a judicial officer to be called the Pre-Trial Judge, to the Court of First Instance exercising civil jurisdiction.

*Clause 5 :* This clause amends section 6 of the principal enactment and the legal effect of that section as amended is to enable the Judicial Service Commission to appoint all Judges of the District Courts, Family Courts, Small Claims Courts, Primary Courts and Magistrates and all such Additional Judges and Magistrates of such courts.

*Clause 6 :* This clause amends section 8 of the principal enactment and the legal effect of that section as amended is to enable the Judicial Service Commission to appoint Additional Judges of the Family Courts and Additional Judges of Primary Courts in addition to the Additional Judges of District Courts, Small Claims Court and Additional Magistrates of Magistrate’s Courts.

*Clause 7 :* This clause replaces section 19 of the principal enactment and the legal effect of that section as replaced is to set out the jurisdiction of the District Court by omitting the matrimonial jurisdiction and jurisdiction over the estates of minors and also to exclude the application of the jurisdiction to Chapter VA of this Act.

*Clause 8 :* This clause replaces section 19A of the principal enactment and the legal effect of that section as replaced is to omit the provisions which set out the civil jurisdiction of the District Courts before these amendments to the principal enactment.

*Clause 9 :* This clause replaces Chapter V of the principal enactment and the legal effect of that Chapter as replaced is to set out the provisions relating to Family Courts.

*Clause 10 :* This clause inserts a new Chapter VA to the principal enactment and the legal effect of that Chapter as inserted is to make provisions to introduce Small Claims Court.

*Clause 11 :* This clause inserts a new Chapter VII in the principal enactment, and the legal effect of that Chapter as inserted is to make provisions to introduce Primary Court.

*Clause 12 :* This clause replaces section 37 of the principal enactment and the legal effect of that section as replaced is to confer the right of appeal to the Supreme Court from any judgment or order of the Court of Appeal in any appeal from the High Court, District Courts, Family Courts, Small Claims Courts, Magistrates’ Courts or Primary Courts.

*Clause 13 :* This clause amends section 45 of the principal enactment and the legal effect of that section as amended is to provide for the Justices of the Peace and Unofficial Magistrates to take and subscribe or make and subscribe an oath or affirmation of office before a Judge of a High Court, Judge of a District Court, Judge of a Family Court, Judge of a Small Claims Court, Magistrate or a Judge of a Primary Court.

*Clause 14 :* This clause amends section 49 of the principal enactment and the legal effect of that section as amended is to make provisions where any Judge of a High Court, Judge of a District Court, Judge of a Family Court, Judge of a Small Claims Court, Magistrate or a Judge of a Primary Court is a party or personally interested in any action etc, some other Judge of the relevant Court of any adjoining zone, district or division to have jurisdiction to hear, try and determine such action etc.

*Clause 15 :* This clause amends section 52 of the principal enactment and the legal effect of the section as amended is to make provisions to include Family Courts and Primary Courts into this section.

*Clause 16 :* This clause amends section 54 of the principal enactment and the legal effect of the section as amended is to make provisions to include Family Court into this section.

*Clause 17 :* This clause replaces section 55 of the principal enactment and the legal effect of that section as replaced is to make provisions for the contempt proceedings of every District Court, Family Court, Small Claims Court, Magistrate’s Court and Primary Court.

*Clause 18 :* This clause inserts a new section 57 in the principal enactment and the legal effect of that section as inserted is to make provisions where a Judge of a Primary Court is not appointed.

*Clause 19 :* This clause inserts a Third Schedule and Fourth Schedule in the principal enactment and the legal effect of the amendment is, in the Third Schedule to state in the Enactments in which wherever a court is referred to, that court is to be the Family Court and in the Fourth Schedule to set out the actions which are excluded from the jurisdiction of Primary Courts.

*Clause 20 :* This clause inserts a Seventh Schedule in the principal enactment and the legal effect of that Schedule as inserted is to set out the actions that are referred to in section 29A (2) of the principal enactment.

|  |  |
| --- | --- |
| *Judicature (Amendment)* | 1 |

L.D.–O. 45/2021

AN ACTTOAMENDTHE JUDICATURE ACT, NO. 2 OF 1978

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

|  |  |  |
| --- | --- | --- |
| 5 | **1.** (1) This Act may be cited as the Judicature | Short title |
| (Amendment) Act, No. of 2022. | and date of |
| operation |
| (2) The provisions of this Act shall come into operation |
| on such date or dates as the Minister may appoint by Order |

published in the *Gazette*.

(3) Different dates may be appointed for bringing into operation different provisions of this Act.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 10 | **2.** Section 2 of the Judicature Act, No. 2 of 1978, | | | Replacement |
| of section 2 |
| 15 | (hereinafter referred to as the “principal enactment”) is hereby | | |
| of Act, No. 2 |
| repealed and the following section is substituted therefore :- | | |
| of 1978 |
| “The Courts | 2. | The Courts of First Instance for the |
| of First  Instance | administration of justice in the Republic of Sri Lanka shall be- | |
| (*a*) | | the High Court of the Republic of |

Sri Lanka;

(*b*) the High Courts for the Provinces   
 established by Article 154P of the

|  |  |  |
| --- | --- | --- |
| 20 | (*c*) | Constitution; |
| the District Courts; |
| 25 | (*d*) | the Family Courts; |
| (*e*) | the Small Claims Courts; |
| (f) | the Magistrates’ Courts; and |
| (*g*) | the Primary Courts.”. |

|  |  |  |
| --- | --- | --- |
| 2 | *Judicature (Amendment)* | Replacement of section 5 of the |
| **3.** Section 5 of the principal enactment is hereby repealed and the following section is substituted therefore: - | |

principal

|  |  |  |  |
| --- | --- | --- | --- |
| 5 | “District | 5.(1) There shall be in each judicial district | enactment |
| Courts, |
| of Sri Lanka a “District Court” which shall be |
| Family |
| Courts, Small | deemed to be the “Family Court” when |
| 10 | Claims | exercising the jurisdiction vested in a Family |
| Courts, |
| Court under this Act or any written law, and |
| Magistrates’ |
| which shall be deemed to be the “Small Claims |
| Courts and |
| Primary | Court” when exercising the jurisdiction vested |
| Courts |
| in a Small Claims Court under this Act or any |

other written law, and in every judicial division there shall be a “Magistrate’s Court” and a “Primary Court” and, each such Court shall be held by and before a person to be called the 15 “District Judge”, “Judge of the Family Court”, “Judge of the Small Claims Court”, “Magistrate” and “Judge of the Primary Court” respectively.

(2) Each Court referred to in subsection (1)

20 may be held at such convenient place or places within such judicial district or division, as the case may be, as the Minister shall, by regulation from time to time appoint:

Provided that nothing in this section shall

25 be construed to restrict or curtail the power possessed by every Judge to hold the Court at any convenient place within his territorial jurisdiction.”.

|  |  |  |
| --- | --- | --- |
| 30 | **4.** Section 5B of the principal enactment is hereby repealed | Replacement |
| and the following section is substituted therefore: - | of section 5B |
| of the |

principal   
enactment

|  |  |  |  |
| --- | --- | --- | --- |
| 5 | “Appointment | *Judicature (Amendment)* | 3 |
| 5B. (1) The Judicial Service Commission | |
| of the Pre- | shall appoint a judicial officer from among the | |
| Trial Judge |
| District Judges and Magistrates to be called | |
| the Pre-Trial Judge, to any one or more Court | |
| of First Instance exercising civil jurisdiction, | |

where the Judicial Service Commission is of   
the opinion that such appointment is required.

(2) The Pre-Trial Judge shall attend to and

|  |  |
| --- | --- |
| 10 | deal with pre-trial conferences as specified in the provisions of the Civil Procedure Code |

(Chapter 101) and post-trial matters assigned   
by the Judicial Service Commission which   
have arisen in the course of a civil proceeding   
instituted in the Court to which he is

|  |  |  |
| --- | --- | --- |
| 15 | appointed.”. | Amendment |
| **5.** Section 6 of the principal enactment is hereby amended |
| 20 | by the repeal of subsection (1) thereof and the substitution | of section 6 |
| of the |
| therefore, of the following: - |
| principal |
| “(1) All District Judges, Judges of the Family | enactment |
| Courts, Judges of the Small Claims Courts, |

Magistrates and Judges of the Primary Courts and all   
such Additional Judges and Additional Magistrates   
of such Courts shall be appointed to their offices by   
the Judicial Service Commission.”.

|  |  |  |
| --- | --- | --- |
| 25 | **6.** Section 8 of the principal enactment is hereby amended | Amendment |
| of section 8 |
| by the repeal of subsections (1) and (2) thereof and the |
| of the |
| substitution therefor, of the following: - |
| principal |
| 30 | “(1) The Judicial Service Commission may | enactment |
| appoint as many additional District Judges, |
| Additional Judges of the Family Court, Additional |

Judges of the Small Claims Court, Additional   
Magistrates or Additional Judges of the Primary Court   
to the same District Court, Family Court, Small Claims   
Court, Magistrate’s Court, and Primary Court

35 respectively as the occasion may require.

4 *Judicature (Amendment)*

(2) Every Additional District Judge, Additional Judge of the Family Court, Additional Judge of the Small Claims Court, Additional Magistrate, or Additional Judge of the Primary Court appointed to 5 any such Court, shall sit separately and exercise all the powers and the jurisdiction vested in the District Court, Family Court, Small Claims Court, Magistrate’s Court and Primary Court, respectively, of that district or division, as the case may be, for 10 which such Additional District Judge, Additional Judge of the Family Court, Additional Judge of the Small Claims Court, Additional Magistrate or Additional Judge of the Primary Court, is so appointed.”.

|  |  |  |
| --- | --- | --- |
| 15 | **7.** Section 19 of the principal enactment is hereby repealed | Replacement |
| of section 19 |
| and the following section is substituted therefor: - |
| of the |

principal

|  |  |  |  |
| --- | --- | --- | --- |
| 20 | “Jurisdiction | 19.Every District Court shall be a court of | enactment |
| of a District |
| record and shall within its district have |
| Court |
| unlimited original jurisdiction in all civil, |
| revenue, trust, insolvency and testamentary |

matters, save and except such of the aforesaid matters as are by or under Chapter VA of this Act or by virtue of the provisions of any other enactment exclusively assigned by way of 25 original jurisdiction to any other court or vested in any other authority and in the exercise of such jurisdiction to impose fines, penalties and forfeitures and shall, in like manner also have jurisdiction over the persons and estates of 30 persons of unsound mind and wards, over the estates of *cestuis que* trust and over guardians and trustees and in any other matter in which jurisdiction is given to District Court by law.”.

|  |  |  |
| --- | --- | --- |
| *Judicature (Amendment)* | 5 | Repeal of  section 19A  of the |
| **8.** Section 19A of the principal enactment is hereby repealed. | |

principal   
enactment

|  |  |
| --- | --- |
| **9.** Chapter V of the principal enactment is hereby repealed and the following Chapter is substituted therefor: - | Replacement of Chapter V of the |

principal

|  |  |  |
| --- | --- | --- |
| 5 | “CHAPTER V | enactment |

FAMILY COURTS

|  |  |  |
| --- | --- | --- |
| 10 | Jurisdiction | 24. (1) Every Family Court shall be a court |
| of Family | of record and shall have sole original |
| Courts |
| jurisdiction in respect of matrimonial disputes, |
| actions for divorce, nullity and separation, |
| damages for adultery, claims for alimony, |

disputes between spouses, parents and children   
as to matrimonial property, custody of minor   
children, dependents’ claims, guardianship

|  |  |
| --- | --- |
| 15 | and curatorship matters, claims in respect of declaration of legitimacy and, illegitimacy and |

marriage, adoption and applications for amendment of birth registration entries, claims for seduction and breach of promise of marriage 20 and such other matters provided for by any other written law:

Provided that anything in the preceding   
provisions of this subsection shall not affect   
the provisions of the Kandyan Marriage and

|  |  |
| --- | --- |
| 25 | Divorce Act (Chapter 113) and the provisions of the Muslim Marriage and Divorce Act |

(Chapter 115).

(2) The Family Court shall also have sole and exclusive jurisdiction in respect of all 30 matters specified in subsection (1) and where

6 *Judicature (Amendment)*

reference is made to any court in respect of   
such matters in any of the enactments referred   
to in the Third Schedule hereto, it shall be   
deemed to be a reference to a Family Court:

5 Provided that this subsection shall have no application to any offences alleged to have been committed in violation of the provisions of any such enactment.

(3) An application for the custody of a minor 10 child or of the spouse of any marriage alleged to be kept in wrongful or illegal custody by any parent or by the other spouse or guardian or relative of such minor child or spouse shall be heard or determined by the Family Court; 15   
 and such Court shall have full power and jurisdiction to hear and determine the same and make such orders both interim and final as the justice of the case shall require.

|  |  |  |
| --- | --- | --- |
| 20 | Care of | 25. The jurisdiction and powers of District |
| minors, and |
| Courts under section 20 as regards the care and |
| charge of |
| their | custody of persons of unsound mind and |
| property | mentally deficient persons and the charge of |

their property shall, in like manner and with   
the same powers be exercised by a Family Court

25 as regards the care of the persons of minors and wards and the charge of their property and shall extend to the charge of the property in Sri Lanka of minors and wards who are not resident in Sri Lanka.

|  |  |  |
| --- | --- | --- |
| 30 | Family | 26. (1) There shall be for every judicial |
| Counsellor | district an officer who shall be called the |

“Family Counsellor”.

*Judicature (Amendment)*  7

(2) Where a dispute in any action in respect of any matter within the jurisdiction of a Family Court, or any application for maintenance, comes up for inquiry or trial before a District 5 Judge, Judge of the Family Court or Magistrate, as the case may be, such District Judge, Judge of the Family Court or Magistrate shall, unless any party to the action expresses in writing a desire to the contrary, refer such dispute to a 10 Family Counsellor, who shall-

(*a*) make every effort to induce the   
 parties to settle such dispute; and

(*b*) submit his report thereon to the District Judge, Judge of the 15 Family Court or Magistrate as the case may be, within such time as may be specified by such District Judge, Judge of the Family Court or Magistrate.

|  |  |
| --- | --- |
| 20 | (3) Where any dispute is settled, the terms of settlement shall be entered, signed by each |

party to the dispute and the Family Counsellor, and be forwarded to the District Judge, Judge of the Family Court or Magistrate as the case 25 may be who shall enter such terms of settlement as a decree of such Court.

(4) Where a Family Counsellor is not able   
to settle any dispute referred to in subsection   
(1), he shall refer such dispute to the District

|  |  |
| --- | --- |
| 30 | Judge, Judge of the Family Court or Magistrate for determination after inquiry or trial. |

(5) No District Judge, Judge of a Family   
Court or Magistrate shall hold any inquiry or   
trial in respect of any dispute, until such

8 *Judicature (Amendment)*

dispute is referred to him by the Family   
Counsellor under subsection (4).

Appeals 27. A person who is dissatisfied with a judgment, decree or order pronounced by the

|  |  |
| --- | --- |
| 5 | Family Court after inquiry or trial may, in accordance with any law, regulation or rule |

governing the manner and procedure for   
appeals from the District Court, prefer an appeal   
therefrom to the Court of Appeal for any error

|  |  |  |
| --- | --- | --- |
| 10 | Transfer | in law or in fact. |
| 28. (1) In the event of two or more separate |
| 15 | cases from | proceedings or actions being instituted in |
| one Family |
| respect of the same or substantially the same |
| Court to |
| family dispute in more than one Family Court, |
| another and |
| consolidation | any party to such proceedings or actions may |

apply, or any Judge of such Family Court in   
which the said proceedings or actions had been   
instituted may refer the matter, to the Court of   
Appeal which shall, in the exercise of its

|  |  |
| --- | --- |
| 20 | powers, as it may deem fit, transfer one or more of such proceedings or actions to one of the |

Family Courts, in which proceedings or actions   
have already been instituted by the said parties;   
so that, all such disputes may be conveniently

|  |  |
| --- | --- |
| 25 | or expeditiously heard and determined in one Family Court. |

(2) In the event of there being two or more proceedings or actions instituted or pending in the same Family Court as between the same 30 parties or relating to substantially the same matter, it shall be competent for the said Court to direct that such proceedings or actions be consolidated into a single proceeding, if in the opinion of the said Court it is convenient to do 35 so or it be so necessary in the interest of justice and the expeditious disposal of such matters

*Judicature (Amendment)*  9

in dispute. The Court may, in such an event   
make such order or deliver such judgment or   
enter such decree from time to time as the   
exigencies and justice of the case may require.

|  |  |  |
| --- | --- | --- |
| 5 | Procedure in | 29. (1) All proceedings in a Family Court |
| Family | shall be instituted and conducted as |
| Courts |
| expeditiously as possible in accordance with |

such regulations as may be prescribed:

Provided that until such regulations have 10 been so prescribed, the Family Court shall, as far as practicable, follow the provisions relating to summary procedure in the Civil Procedure Code (Chapter 101).

(2) The provisions of the Adoption of 15 Children Ordinance (Chapter 61) governing the institution and conducting of proceedings under the said Ordinance shall be deemed to apply to such proceedings that may be instituted in the Family Court.

20 (3) All applications for the care and custody of minor children shall take precedence over all other matters in every Family Court and shall, unless exceptional circumstances so warrant, be heard from day to day to ensure the

|  |  |  |
| --- | --- | --- |
| 25 | expeditious disposal of the same.”. | Insertion of |
| **10.** The following new Chapter is hereby inserted |
| new Chapter |
| immediately after Chapter V of the principal enactment and |
| VA in the |
| shall have effect as Chapter VA of that enactment: - | principal |

enactment

10 *Judicature (Amendment)*

“CHAPTER VA

SMALL CLAIMS COURTS

|  |  |  |
| --- | --- | --- |
| 5 | Jurisdiction | 29A. (1) Every Small Claims Court shall be |
| of Small | a court of record and shall have exclusive |
| Claims |
| original civil jurisdiction and shall have |
| Courts |
| cognizance of and full power to hear and |

determine all actions specified in the Seventh   
Schedule hereto:

Provided however, aSmall Claims Court 10 shall have no jurisdiction or power to hear and determine any action filed under the provisions of Chapter LIII of the Civil Procedure Code (Chapter 101) or action for the recovery of money to which special provisions are made 15 under any other written law.

(2) All actions specified in the Seventh Schedule shall not exceed a sum of rupees one million and five hundred thousand excluding interest, or such other amount as may be fixed 20 by the Minister from time to time, by an Order published in the *Gazette.*

(3) An Order made under subsection (2) shall   
not have effect, until it is approved by   
Parliament and notification of such approval

|  |  |  |
| --- | --- | --- |
| 25 | Procedure | is published in the *Gazette*. |
| 29B. The proceedings before any Small |
| 30 | before the | Claims Court may be taken by the special |
| Small Claims |
| procedure for Small Claims Court as provided |
| Courts |
| in the Small Claims Courts’ Procedure Act, |
| No. of 2022 and any other written law. |

|  |  |  |  |
| --- | --- | --- | --- |
| 5 | Order | *Judicature (Amendment)* | 11 |
| 29C. It shall be lawful for the Judge of | |
| respecting | every Small Claims Court, in pronouncing his | |
| payment of |
| order or judgment in any case, to make such | |
| costs and |
| expenses | order in respect of the payment of costs and | |
| Appeal | expenses as to him shall appear just and | |
| reasonable. | |
| 29D. (1) Any person who is dissatisfied | |

with any judgment pronounced by any Small   
Claims Court in any action, proceeding or

|  |  |
| --- | --- |
| 10 | matter to which he is a party, may, except where such right is expressly disallowed, prefer an |

appeal therefrom to the High Court for the Province established by Article 154P of the Constitution in which such Small Claims Court 15 is situated for any error in law or in fact.

(2) Any person who is dissatisfied with any   
order made by any Small Claims Court in the   
course of any action, proceeding, or matter to   
which he is or seeks to be a party, may prefer an

|  |  |
| --- | --- |
| 20 | appeal to the High Court for the Province established by Article 154P of the Constitution |

in which such Small Claims Court is situated against such order for the correction of any error in law or in fact, with the leave of such 25 High Court first had and obtained.

(3) Any person who is dissatisfied with any   
order made by any Small Claims Court setting   
aside or refusing to set aside the judgment   
entered upon default in the course of any

|  |  |
| --- | --- |
| 30 | action, proceeding or matter to which he is, or seeks to be a party, may prefer an appeal to the |

High Court for the Province established by   
Article 154P of the Constitution in which such   
Small Claims Court is situated, for the

|  |  |
| --- | --- |
| 35 | correction of any error of law or fact, with the leave of such High Court first had and obtained. |

12 *Judicature (Amendment)*

(4) The provisions of Chapters LVIII, LIX, LX and LXI of the Civil Procedure Code (Chapter 101) with reference to appeal and the stay of execution pending appeal, shall apply 5 so far as they are not inconsistent with the provisions of this Chapter.

(5) The Judge of every Small Claims Court   
shall conform to and execute all such   
judgements, orders, and decrees of the Supreme

|  |  |
| --- | --- |
| 10 | Court, Court of Appeal or High Court for the Provinceestablished by Article 154P of the |

Constitution as shall be made and pronounced   
in any appeal, in like manner as any original   
judgement or order pronounced by the said

|  |  |  |
| --- | --- | --- |
| 15 | Amicable | Judge could or might have been executed. |
| 29E. It shall be the duty of the Judge of the |
| settlements |
| Small Claims Court by all lawful means to make |

every effort to induce the parties, before or during the trial, to arrive at a settlement where 20 appropriate and if the parties agree to a settlement. The settlement shall be recorded and signed by the parties and a judgement made in accordance with the terms as settled.”.

|  |  |  |
| --- | --- | --- |
| 25 | **11.** The following newChapter is hereby inserted | Insertion of |
| immediately after Chapter VI of the principal enactment | new Chapter |
| VII in the |
| and shall have effect as Chapter VII of that enactment: - |
| principal |

enactment

“CHAPTER VII

PRIMARY COURTS

|  |  |  |
| --- | --- | --- |
| 30 | Civil | 32. (1) Every Primary Court shall, subject |
| jurisdiction | to the provisions of any other law, have original |

civil jurisdiction where the debt, damage,

*Judicature (Amendment)*  13

demand or claim does not exceed one thousand   
five hundred rupees and shall also have   
jurisdiction in respect of the enforcement of

|  |  |
| --- | --- |
| 5 | by-laws of local authorities and matters relating to the recovery of revenue of such local |

authorities.

(2) The Primary Courts shall have no   
jurisdiction in respect of the disputes referred

|  |  |  |
| --- | --- | --- |
| 10 | Criminal | to in the Fourth Schedule hereto, irrespective |
| of the value of such claim. |
| 33. (1) Every Primary Court shall have |
| jurisdiction |
| exclusive original criminal jurisdiction in |

respect of such offences as may, by regulation,

|  |  |
| --- | --- |
| 15 | be prescribed by the Minister and the Minister may, in that regulation specify in the case of |

each offence the limitations, restrictions and   
conditions in respect of each such offence.

(2) The Primary Courts shall have sole and   
exclusive jurisdiction in respect of all offences

|  |  |
| --- | --- |
| 20 | alleged to have been committed in violation of the provisions of any enactment or any |

subsidiary legislation made thereunder, in   
respect of which jurisdiction is vested in such   
Court.

25 (3) Anything in this section shall not preclude a Magistrate from convicting and passing sentence on any person found guilty after trial of any offence specified in subsection (1).

|  |  |  |
| --- | --- | --- |
| 30 | Duty to | 34. (1) Where any civil proceeding or matter |
| conciliate | is instituted in a Primary Court, it shall be the |
| disputes | duty of the Judge of that Primary Court to |

summon the parties to appear before him and   
wherever appropriate to make every effort to

|  |  |
| --- | --- |
| 35 | induce such parties to arrive at a settlement before proceeding to inquiry or trial. Where |

14 *Judicature (Amendment)*

such parties agree to a settlement, such settlement shall be recorded and signed by the parties thereto and shall be entered as a decree of the said Primary Court and be enforceable, 5 as a decree thereof.

(2) Where any criminal proceeding or matter is instituted in a Primary Court, it shall be the duty of the Judge of that Court to summon the parties concerned to appear before him and 10 wherever appropriate to induce such parties to arrive at a settlement. Where such parties agree to a settlement, such settlement shall be recorded and signed by the parties concerned and notwithstanding anything to the contrary in any 15 other law, the offence to which the proceeding or matter relates shall be compounded.

Appeal 35. (1) Any party aggrieved by any judgment, order, decree, conviction or sentence, entered or imposed after inquiry or trial by a Primary 20 Court may, subject to any law and in accordance with any law, regulation or rule governing the procedure and manner for so appealing, prefer an appeal therefrom to the Court of Appeal for any error in law or in fact:

25 Provided that where there is no such law, regulation or rule governing the procedure and manner for so appealing, the provisions relating to appeals from a Magistrate’s Court shall apply to an appeal in a criminal matter or proceeding 30 and the provisions relating to appeals from a District Court shall apply to an appeal in a civil matter or proceeding.

(2) No appeal shall lie from any judgment,   
order, decree, conviction or sentence entered

*Judicature (Amendment)*  15

or imposed by reason of a settlement of the   
dispute between the parties arrived at under   
the provisions of this Chapter.

|  |  |  |
| --- | --- | --- |
| 5 | Procedure in | 36. All proceedings in a Primary Court shall |
| Primary | be instituted and conducted as expeditiously |
| Courts |
| as possible in accordance with such law as may |

be applicable thereto and, if there be no such law, in accordance with the provisions relating to summary procedure in the Civil Procedure 10 Code (Chapter 101) in respect of a civil matter or proceeding and in accordance with the provisions relating to summary trials in a Magistrate’s Court in respect of a criminal matter or proceeding.”.

|  |  |  |  |
| --- | --- | --- | --- |
| 15 | **12.** Section 37 of the principal enactment is hereby | | Replacement |
| 20 | repealed and the following section is substituted therefore:- | | of section 37 |
| of the |
| “Right of  appeal to the Supreme  Court | 37. There shall be a right of appeal to the Supreme Court in accordance with the provisions of the Constitution and of any other law from any judgment or order of the Court of | principal |
| enactment |
| Appeal in any appeal from the High Court, the | |

District Courts, the Family Courts, the Small   
Claims Courts, the Magistrates’ Courts or the   
Primary Courts.”.

|  |  |  |
| --- | --- | --- |
| 25 | **13.** Section 45 of the principal enactment is hereby | Amendment |
| amended by the repeal of subsection (4) thereof and the | of section 45 |
| of the |
| substitution therefore, of the following: - |
| principal |
| “(4) Every Justice of the Peace and every Unofficial | enactment |

Magistrate appointed under subsections (2 ) and (3 )

|  |  |
| --- | --- |
| 30 | shall take and subscribe or make and subscribe an oath or affirmation of office in such form as may be |

determined by the Minister before a Judge of the High   
Court, District Judge, Judge of the Family Court, Judge   
of the Small Claims Court, Magistrate, or Judge of the

16 *Judicature (Amendment)*

Primary Courtand every such Judge is empowered and required, upon application in that behalf, to administer the same and to enter in the records of his court that the said oath or affirmation was duly 5 administered and taken by him, and forthwith to transmit a copy of such entry to the Registrar of the Supreme Court to be entered in the records of that Court.”.

|  |  |  |
| --- | --- | --- |
| 10 | **14.** Section 49 of the principal enactment is hereby | Amendment |
| amended by the repeal of the proviso to subsection (3) of | of section 49 |
| of the |
| that section and the substitution therefore, of the following :- |
| principal |

enactment

“Provided that in every other case some other Judge of the High Court, the District Court, Family Court, Small Claims Court, Magistrate of theMagistrate’s 15 Court and Judge of the Primary Court, as the case may be, of any adjoining zone, district or division shall have jurisdiction to hear, try and determine such action, prosecution, proceeding or matter.”.

|  |  |  |
| --- | --- | --- |
| 20 | **15.** Section 52 of the principal enactment is hereby | Amendment |
| of section 52 |
| amended in subsection (1) thereto by the substitution for |
| of the |
| the words “the District Courts, Small Claims Courts and |
| principal |
| Magistrates’ Courts”, of the words “the District Courts, | enactment |

Family Courts, Small Claims Courts, Magistrates’ Courts and Primary Courts”.

|  |  |  |
| --- | --- | --- |
| 25 | **16.** Section 54 of the principal enactment is hereby | Amendment |
| of section 54 |
| amended in subsection (1) thereto by the substitution for |
| of the |
| the words “Where in any action instituted in a High Court, |
| principal |
| District Court or Small Claims Court, it appears-”, of the | enactment |

words “Where in any action instituted in a High Court, 30 District Court, Family Court or Small Claims Court, it appears-”.

|  |  |  |
| --- | --- | --- |
| *Judicature (Amendment)* | 17 | Replacement of section 55 of the |
| **17.** Section 55 of the principal enactment is hereby repealed and the following section is substituted therefore:- | |

principal   
enactment

|  |  |  |
| --- | --- | --- |
| 5 | “Contempt | 55. (1) Every District Court, Family Court, |
| proceedings | Small Claims Court, Magistrate’s Court and |
| Primary Court shall, for the purpose of |

maintaining its proper authority and efficiency, have a special jurisdiction to take cognizance of, and to punish with the penalties in that behalf as hereinafter provided, every offence 10 of contempt of court committed in the presence of the court itself and all offences which are committed in the course of any act or proceeding in the said court respectively, and which are declared by any law for the time 15 being in force to be punishable as contempt of court.

(2) The following sentences of fines or imprisonment as the case may be, may be imposed on conviction for contempt by the 20 following courts respectively, namely-

(*a*) by a District Court and Family   
 Court afine not exceeding two   
 thousand five hundred rupees or   
 imprisonment, either simple or

|  |  |  |
| --- | --- | --- |
| 25 | (*b*) | rigorous, for a period not |
| exceeding two years; |
| by a Small Claims Court and |

Magistrate’s Court – afine not   
exceeding one thousand five

|  |  |
| --- | --- |
| 30 | hundred rupees or imprisonment either simple or rigorous, for a |

period not exceeding eighteen   
months; and

18 *Judicature (Amendment)*

(*c*) by a Primary Court – afine not   
 exceeding five hundred rupees or   
 imprisonment, either simple or   
 rigorous, for a period not

|  |  |  |  |
| --- | --- | --- | --- |
| 5 | exceeding three months.”. | | Insertion of |
| **18.** The following new section is hereby inserted | |
| 10 | immediately after section 56 of the principal enactment and | | section 57 in |
| the principal |
| shall have effect as section 57 of that enactment: - | |
| enactment |
| “Where  Judge of a  Primary  Court is not appointed | 57. Where a Judge of a primary Court of any judicial division established under this Act has not been appointed, the Magistrate of such division shall be deemed for all purpose to be |

and shall exercise all jurisdiction of the Judge

|  |  |
| --- | --- |
| 15 | of the Primary Court of such division until a Judge of such Primary Court is appointed: |

Provided that where a Judge of a Primary   
Court of such division is appointed, the   
Magistrate of such division may hear and   
determine all prosecutions, actions,

|  |  |
| --- | --- |
| 20 | proceedings or matters in which such Magistrate has commenced the recording of |

any evidence.”.

|  |  |  |
| --- | --- | --- |
| 25 | **19.** The principal enactment is hereby amended by the | Addition of |
| insertion immediately after the Second Schedule thereof, of | the Third and |
| Fourth |
| the following new Schedules: - |
| Schedules to |

the principal

“THIRD SCHEDULE enactment

[Section 24(2)]   
Enactments

(1) Adoption of Children Ordinance (Chapter 61)

(2) Births and Deaths Registration Act (Chapter 110)

(3) Civil Procedure Code (Chapter 101)

*Judicature (Amendment)*  19

(4) Jaffna Matrimonial Rights and Inheritance Ordinance   
 (Chapter 58)

(5) Legitimacy Act, No. 3 of 1970

(6) Marriage Registration Ordinance (Chapter 112)

(7) Married Women’s Property Ordinance (Chapter 56)

(8) Matrimonial Rights and Inheritance Ordinance (Chapter 57)

FOURTH SCHEDULE

[Section 32(2)]

Actions excluded from the jurisdiction of Primary Courts

(1) Any action concerning an act or order purporting to be   
 done or made by the State or concerning an act purporting   
 to be done by any person by order of the State.

(2) Any action concerning an act purporting to be done by any   
 person in pursuance of a judgement or order of a court or   
 of a judicial officer acting in the execution of his office.

(3) Any action concerning any act or order purporting to be   
 done or made by any officer of the State in his official   
 capacity.

(4) Any action for the partition or sale of immovable property   
 under the law relating to partition for the time being in   
 force.

(5) Any action by a mortgagee of immovable property for the   
 enforcement of the mortgage or for the sale of the property,   
 or by a mortgagor of immovable property for the redemption   
 of the mortgage.

(6) Any action to restrain waste.

(7) Any action to recover from a person to whom compensation   
 has been paid under the Land Acquisition Act (Chapter   
 460) or Land Reform Law No. 1 of 1972, the whole or any   
 part of the compensation.

(8) Any action for the specific performance or rescission of a   
 contract or for damages for breach of contract.

(9) Any action for the rectification or cancellation of an   
 injunction.

20 *Judicature (Amendment)*

(10) Any action to obtain an injunction.

(11) Any action relating to a trust including an action to make   
good out of the general estate of a deceased trustee the loss   
occasioned by a breach of trust, and any action by a co-  
trustee to enforce against the estate of a deceased trustee a   
claim for the contribution.

(12) Any action for a declaratory decree including a decree for   
 the declaration of title to land.

(13) Any action for a property which the plaintiff has conveyed   
 while insane or under other incapacity.

(14) Any action to contest an award made by an arbitrator.   
(15) Any action upon a foreign judgement as defined in the Civil   
 Procedure Code (Chapter 101) or upon a judgement   
 obtained in any court in Sri Lanka.

(16) Any action to compel a refund by a person to whom an   
executor or administrator has paid a legacy or distributed   
assets.

(17) Any action for a legacy or for the whole or a share of a   
residue bequeathed by a testator or for the whole or a share   
of the property of an intestate.

(18) Any action-  
 (*a*) for a dissolution of partnership or for the winding   
 up of the business of a partnership after its   
 dissolution;   
 (*b*) for an account of partnership transactions; or   
 (*c*) for a balance of partnership-account.

(19) Any action for an account of property administered under   
 decree or order of any court.

(20) Any other action for an account, including an action by a   
mortgagor, after the mortgage has been satisfied, to recover   
surplus collection received by the mortgagee, and any action   
for the profits on immovable property belonging to the   
plaintiff which has been wrongfully received by the   
defendant.

*Judicature (Amendment)*  21

(21) Any action for a general average loss or for salvage.   
(22) Any action for compensation in respect of collision between   
 ships.

(23) Any action on a policy of insurance or for the recovery of   
 any premium paid under any such policy.

(24) Any action for compensation or damages -  
 (*a*) for loss resulting from the death of a person   
 caused by actionable wrong;   
 (*b*) for wrongful arrest;   
 (*c*) for malicious prosecution;   
 (*d*) for wrongful restraint or confinement;   
 for defamation; (*e*)   
 (*f*) for adultery or seduction;   
 (g) for breach of contract of betrothal or promise of   
 marriage;   
 (*h*) for inducing a person to break a contract made   
 with the plaintiff;   
 (*i*) for obstruction to or interference with the   
 enjoyment of any servitude or the exercise of   
 any right over property.

(25) Any action by a Muslim for the recovery of Mahr.

(26) Any action for the custody of a minor.

(27) Any action for a divorce or a judicial separation.

(28) Any action relating to maintenance, affiliation or adoption.   
(29) Any action for contribution by a sharer in joint property in   
respect of a payment made by him of money due from a   
co-sharer.

(30) Any action by one of several joint mortgagors of immovable   
property for contribution in respect of money paid by him   
for the redemption of the mortgaged property.

22 *Judicature (Amendment)*

(31) Any action against the State or a Local Authority to recover   
money paid under protest in satisfaction of a claim made on   
account of any tax or rate or other levy.

(32) Any action under the Companies Act, No. 7 of 2007 as   
 amended from time to time.

(33) Any action relating to trade marks, patents or copyrights   
under the Intellectual Property Act, No. 36 of 2003.

(34) Any action founded on nuisance.

(35) Any action for rent and ejectment and proceedings under   
 the Rent Act, No. 7 of 1972.

(36) Any action expressly or by implication excluded from the   
jurisdiction of Primary Courts by any written law (other   
than this Act) for the time being in force.”.

|  |  |  |  |
| --- | --- | --- | --- |
| **20.** The principal enactment is hereby amended by the addition immediately after the Sixth Schedule thereof, of the following new Schedule: -  “SEVENTH SCHEDULE | | | Addition of the Seventh Schedule to the principal enactment |
| Actions | | [Section 29A(2)] |
| 1. | Any action for the recovery of money (either as a debt or | |

fee or payment or damage or demand including an action   
 for the recovery of damages on accident or personal injury   
 or in any other similar category);   
2. Any action for the recovery of movable property;   
3. Any action for a counterclaim in respect of any cause of   
 action specified in items 1 and 2;   
4. Any other jurisdiction as is conferred upon it by any other   
 law.”.

|  |  |
| --- | --- |
| **21.** 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

|  |  |
| --- | --- |
| *Judicature (Amendment)* | 23 |

DEPARTMENTOFGOVERNMENTPRINTING