



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

**MEDIATION BOARDS (AMENDMENT) ACT,
No. 15 OF 1997**

[Certified on 22nd July, 1997]

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L.D.—O. 49/91.

AN ACT TO AMEND THE MEDIATION BOARDS ACT,
No. 72 OF 1988

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

1. This Act may be cited as the Mediation Boards (Amendment) Act, No. 15 of 1997. Short title.

2. Section 7 of the Mediation Boards Act, No. 72 of 1988 (hereinafter referred to as the “principal enactment”) is hereby amended in subsection (1) of that section by the substitution, for the words and figures “the certificate of non-settlement referred to in section 12 or section 14 (2):” of the words and figures “a certificate of non-settlement referred to in section 14A :”. Amendment of section 7 of Act No. 72 of 1988.

3. Section 9 of the principal enactment is hereby amended as follows :— Amendment of section 9 of the principal enactment.

(1) by the repeal of subsection (1) of that section and the substitution therefor, of the following subsections :—

‘(1) Upon receipt of an application under section 6 or upon a reference made to him under section 7 or section 8, the Chairman of a Panel appointed for a Mediation Board area shall, ascertain from the disputants their preferences as to the manner of constituting a Mediation Board, and shall in accordance with the preferences expressed by the disputants, do either of the following :—

(i) constitute a Mediation Board under subsection (2) ; or

(ii) allow the disputants to select a pre-constituted Board under subsection (3).

(2) Where all the disputants express a preference for the constitution of a Mediation Board under subsection (1), the Chairman of a Panel appointed for a Mediation Board area shall, constitute a Mediation Board (hereinafter referred to as the "Board") of three members, consisting of—

(a) one member selected by each disputant ;
and

(b) one member selected by the members selected under paragraph (a),

from the Panel appointed for that Mediation Board area :

Provided that, where the disputants referred to in paragraph (a) or the members referred to in paragraph (b), are unable to agree as to their respective selections, the Chairman of the Panel shall make the necessary selection :

Provided further that, where any disputant referred to in paragraph (a), expresses in writing, his unwillingness to make a selection under that paragraph, such selection shall be made by lot drawn by the Chairman of the Panel. Where the disputant for any reason, objects to the member first selected by the drawing of lots, the Chairman shall make a further selection by drawing lots.

(3) Where all the disputants express a preference for the reference of the dispute or offence in respect of which the application or reference is made, to a pre-constituted Board, the Chairman of the panel shall allow the disputants to select any Board from among the Boards, each consisting of three members, (including a Chief Mediator appointed by the Chairman), previously constituted by the Chairman, from the Panel appointed for that Mediation Board area. ;

(2) by the renumbering of subsections (2) and (3) of that section, as subsections (4) and (5) of that section, respectively.

(3) in the renumbered subsection (4) of that section, by the substitution, for all the words and figures from " The member selected " to " (hereinafter referred to as the " Chief Mediator ") : " of the following :—

" The member selected under paragraph (b) of subsection (2) shall act as the Chief Mediator of the Board constituted under that subsection : " ;

(4) in the renumbered subsection (5) of that section, by the substitution, for the words " Upon the constitution of the Board, " of the words " Upon the constitution or selection of the Board ".

4. Section 10 of the principal enactment is hereby amended as follows :—

Amendment
of section 10
of the
principal
enactment.

(1) by the substitution, for the words and figures " under subsection (3) of section 9 ", of the words and figures " under subsection (5) of section 9 " ;

(2) in paragraph (a) of that section, by the substitution, for the words " at a specified time and place ; " of the words " at a specified time and place, and shall state in such notification that if any one of the disputants fails to be present at any such conference, the absence of such disputant shall be stated in the certificate of non-settlement that may be issued under section 14A, or in the report submitted to court under paragraph (b) of section 12 ; ".

(3) by the repeal of paragraph (d) of that section and the substitution therefor, of the following paragraph :—

Mediation Boards (Amendment)
Act, No. 15 of 1997

- “(d) complete its proceedings within the time limit specified in section 13 and in the event of failure to do so, proceed under section 14A”.

Replacement
of section 12
of the
principal
enactment.

5. Section 12 of the principal enactment is hereby repealed and the following section substituted therefor :—

“Where no
settlement is
possible.

12. Where it is not possible to constitute a Board under section 9, due to the absence, after due notification of one of the disputants or where, after the constitution of a Board under section 9, the disputants do not agree to a settlement or it is not possible to arrive at a settlement due to the absence, after due notification of, one of the disputants, the chairman or the Chief Mediator, as the case may be, shall—

- (a) in the case of an application made under section 6, proceed under section 14A ;
- (b) in the case of a dispute referred by any court under section 7 or section 8, report to such court in the prescribed form signed by the Chairman or the Chief Mediator, as the case may be, that it has not been possible to settle the dispute by mediation and stating therein the reasons for non-settlement.”.

Replacement
of section 13
of the
principal
enactment.

6. Section 13 of the principal enactment is hereby repealed and the following section substituted therefor :—

“Time limit
within which
Board must act.

13. The Board shall, in respect of every dispute or offence before it for settlement by mediation, take the steps specified in subsection (1) of section 11 or in section 12—

- (a) in the case of a dispute, within sixty days of the constitution of the Board ;
- (b) in the case of an offence, within thirty days of the constitution of the Board.”.

7. Section 14 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution, for all the words from "Where, the resolution of such differences is not possible, the Board " to the end of that subsection, of the words "Where, the resolution of such differences is not possible, the Board shall proceed under section 14A."

Amendment of section 14 of the principal enactment.

8. The following new sections are hereby inserted immediately after section 14 and shall have effect as sections 14A and 14B of the principal enactment :—

Insertion of new sections 14A and 14B in the principal enactment.

"Certificates of non-settlement.

14A. Where a settlement of any dispute or offence or the resolution of any differences that have arisen between the disputants after a settlement, has not been possible under the provisions of this Act, the Chairman or the Chief Mediator, as the case may be, shall issue a certificate of non-settlement in the prescribed form signed by the Chairman or the Chief Mediator, as the case may be, stating that it has not been possible to settle such dispute or offence by mediation and stating therein the reason for non-settlement.

Certificates of non-settlement receivable in evidence.

14B. (1) A certificate of non-settlement purporting to be issued under section 14A and signed by the Chairman or the Chief Mediator, as the case may be, may be given in evidence in any action or proceeding instituted in any court although such person is not called as a witness.

(2) The court may presume that the signature on any certificate of non-settlement is genuine and that the person signing it held the office he professed to hold at the time he signed it :

Provided that, if in any case the court is of opinion on the application of any party or otherwise, and for reasons to be recorded, that it is necessary that the Chairman of the Panel or the Chief Mediator should be present to give

**Mediation Boards (Amendment)
Act, No. 15 of 1997**

evidence at any proceeding before such court, such Chairman or Chief Mediator shall be summoned as a witness for the purpose of giving evidence relating to the signing of such certificate only.”.

Amendment
of section 17
of the
principal
enactment.

9. Section 17 of the principal enactment is hereby amended by the substitution, for the words and figures “certificate issued under section 12 or subsection (2) of section 14” of the words and figures “certificate issued under section 14A”.

Amendment
of section 24
of the
principal
enactment.

10. Section 24 of the principal enactment is hereby amended by the insertion, immediately before the definition of “disputant”, of the following new definition:—

“Chief Mediator” means the member of the Board selected under paragraph (b) of subsection (2) of section 9 or appointed by the Chairman of the Panel under subsection (3) of that section ;’.

Amendment
of the First
Schedule to
the principal
enactment.

11. The First Schedule to the principal enactment is hereby amended by the substitution, for item 12 of that Schedule, of the following item:—

“12. The Chairman and other members shall be paid such allowances at such rates and subject to such conditions as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.”.

Amendment
of the Second
Schedule to
the principal
enactment.

12. The Second Schedule to the principal enactment is hereby amended by the the substitution, for the item “Causing hurt by an act which endangers life” appearing in Column I of that Schedule and the corresponding entry in Column II thereof of the following :—

“Causing hurt by an act which endangers life328”.

Sinhala text to
prevail in case of
inconsistency.

13. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.