



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

**EVIDENCE (AMENDMENT)
ACT, No. 33 OF 1998**

[Certified on 12th June , 1998]

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[Certified on 12th June, 1998]

L.D.—O. 41/96.

AN ACT TO AMEND THE EVIDENCE ORDINANCE

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

1. This Act may be cited as the Evidence (Amendment) Act, No. 33 of 1998.

Short title.

2. The following section is hereby inserted immediately after section 35, and shall have effect as section 35A of the Evidence Ordinance (hereinafter referred to as "the principal enactment") :—

Insertion of section 35A in Chapter 14.

"Statements contained in records compiled on information supplied by third parties having personal knowledge of the matters contained in such statement, when relevant.

35A. A statement of a fact contained in a record, compiled—

- (a) by any person in the course of any trade, business, or occupation in which he is engaged or employed or for the purposes of any paid or unpaid office held by such person ; and
- (b) from information supplied to such person by any other person who had, or may reasonably supposed to have had, personal knowledge of the matters dealt with in that information,

is a relevant fact :

Provided that such a statement shall not be capable of corroborating the oral evidence of the person who originally supplied the information from which the record containing the statement was compiled."

3. The following sections are hereby inserted after section 41, and shall have effect as sections 41A, 41B, and 41C respectively of the principal enactment :—

Insertion of sections 41A, 41B and 41C in the principal enactment.

Relevancy
of judgments
&c.
recording
convictions,
in civil
proceedings.

41A. (1) Where in an action for defamation, the question whether any person committed a criminal offence is a fact in issue, a judgment of any court in Sri Lanka recording a conviction of that person for that criminal offence, being a judgment against which no appeal has been preferred within the appealable period or which has been finally affirmed on appeal, shall be relevant for the purpose of proving that such person committed such offence, and shall be conclusive proof of that fact.

(2) Without prejudice to the provisions of subsection (1), where in any civil proceedings, the question whether any person, whether such person is a party to such civil proceedings or not, has been convicted of any offence by any court or court martial in Sri Lanka, or has committed the acts constituting an offence, is a fact in issue, a judgment or order of such court or court martial recording a conviction of such person for such offence, being a judgment or order against which no appeal has been preferred within the appealable period, or which has been finally affirmed in appeal, shall be relevant for the purposes of proving that such person committed such offence or committed the acts constituting such offence.

(3) In this section—

“Court Martial” means a Court Martial constituted under the Army Act or the Navy Act or the Air Force Act and the expression “conviction” when used in relation to a Court Martial, means a conviction by such Court Martial confirmed in accordance with the provisions of the law under which such Court Martial was constituted.

Relevancy of judgment &c. recording findings of adultery in Civil Proceedings.

41a. (1) Where in any civil proceedings, the question whether any person, whether such person is a party to such civil proceeding or not, has committed adultery is a fact in issue, any judgment, decree or order in any matrimonial proceedings recording a finding that such person has been found guilty of adultery, being a decree, judgment or order from which there has been no appeal within the appealable period or which has been finally affirmed in appeal, shall be relevant for the purpose of proving that such person committed such adultery.

(2) In this section, "matrimonial proceedings" means an action for divorce a *vinculo matrimonii* or *separation a mensa et thoro* or proceedings had before a District Registrar pursuant to an application made to such District Registrar under section 33 of the Kandyan Marriage and Divorce Act or proceedings had before a Quazi or Special Quazi pursuant to an application for divorce made under the Muslim Marriage and Divorce Act.

Illustrations

- (a) B injures C while driving A's car in the course of B's employment with A.

B is convicted for careless driving.

In an action for damages instituted by C against A and B, B's conviction is relevant.

- (b) A obtains a decree for divorce against B on the ground of B's adultery with C. C's wife sues C for divorce on the ground of C's adultery with B. The divorce decree is relevant to prove B's adultery with C.

Relevancy of judgments &c. recording findings of paternity in Civil Proceedings- 41c. (1) Where in any civil proceedings, the question whether any person, whether such person is a party to such civil proceeding or not, is the father of a child is a fact in issue, an order entered in any maintenance proceedings recording a finding that such person is the father of such child, being an order from which there has been no appeal within the appealable period or which has been finally affirmed in appeal, shall be relevant for the purposes of proving that such person is the father of such child.

(2) In this section, "maintenance proceedings" mean proceedings had before a Magistrate pursuant to an application made to such Magistrate for an order under section 2 of the Maintenance Ordinance or proceedings had before a Quazi pursuant to a claim made to such Quazi by, or on behalf of, a child, under the Muslim Marriage and Divorce Act.

Amendment of section 42 of the principal enactment

4. Section 42 of the principal enactment is hereby amended by the substitution, for the words and figures "Section 41" wherever those words and figures occur in that section or in the marginal note thereof, of the words and figures "sections 41, 41A, 41B and 41c".

Amendment of section 43 of the principal enactment.

5. Section 43 of the principal enactment is hereby amended by the substitution, for the words and figures "sections 40, 41, and 42" wherever those words and figures occur in that section or in the marginal note thereof, of the words and figures "sections 40, 41, 41A, 41B, 41c and 42".

Amendment of section 44 of the principal enactment.

6. Section 44 of the principal enactment is hereby amended by the substitution, for the words and figures "sections 40, 41 or 42", of the words and figures "sections 40, 41, 41A, 41B, 41c or 42".

Sinhala text to prevail in case of inconsistency.

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

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