



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

SMALL CLAIMS COURTS' PROCEDURE

A

BILL

**to provide for the procedure to be followed in Small Claims Courts; and
to provide for the matters connected therewith or incidental thereto**

*Presented by the Minister of Justice, Prison Affairs and
Constitutional Reforms on 31st of August, 2022*

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Small Claims Courts' Procedure

L.D. – O. 44/2021

AN ACT TO PROVIDE FOR THE PROCEDURE TO BE FOLLOWED IN SMALL CLAIMS COURTS; AND TO PROVIDE FOR THE MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

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

1. (1) This Act may be cited as the Small Claims Courts' Procedure Act, No. of 2022. Short title
and date of
operation

5 (2) The provisions of this Act shall come into operation on such date as the Minister may appoint by Order published in the *Gazette*.

PART I

ACTIONS

10 2. Subject to the provisions of section 3 of this Act and Chapter VA of the Judicature Act, and any pecuniary or other limitations imposed by any written law, an action for a small claim shall be instituted in the Small Claims Court within the local limits of the judicial division in accordance with
15 the provisions of Chapter III of the Civil Procedure Code:

*Institution of
actions*

20 Provided however, a Small Claims Court shall not have jurisdiction to hear and determine any action filed under the provisions of Chapter LIII of the Civil Procedure Code or any other written law with special provisions to hear matters for the recovery of money, even if the value of the cause of action is less than the sum specified or such other amount as may be fixed by the Minister from time to time in terms of subsection (2) of section 29A of the Judicature Act.

3. A cause of action in a Small Claims Court shall be limited to the provisions of Chapter VA of the Judicature Act for the sum specified or such other amount as may be fixed by the Minister from time to time in terms of subsection (2) of section 29A of the Judicature Act:
- Cause of action in a Small Claims Court

Provided however, the plaintiff may join two or more causes of actions arising out of the same act or transaction between the same parties, where the value of each cause of action does not exceed such sum.

4. A plaintiff shall have the right to abandon or relinquish a part of the claim or claims in order to invoke the jurisdiction of a Small Claims Court and shall include an averment to the said effect in the plaint.
- Abandonment of portions of the claim

5. In every case where an action has been instituted in a District Court or a Small Claims Court not having jurisdiction in terms of Chapter VA of the Judicature Act, the provisions of section 47 of the Civil Procedure Code shall apply. In the event the plaint is returned in terms of section 47 of the Civil Procedure Code, notwithstanding anything to the contrary in any other written law, the period between the date of the institution of the action and the date of return of the plaint shall be excluded in computing the period of prescription.
- Where a plaint is presented to a wrong court

PART II

PLEADINGS AND SUMMONS

6. The pleadings in a Small Claims Court shall be limited to the following:-
- Pleadings

- (a) the plaint;
- (b) the answer; and
- (c) the replication:

Provided however, that where there is no claim in reconvention, there shall be no further pleadings beyond the answer.

- 5 **7.** (1) Every action shall be instituted in the Small Claims Court by the plaintiff or his registered attorney on his behalf, presenting or transmitting to the Small Claims Court by a duly stamped written plaint in the Form No. 1 set out in the Schedule hereto, with the appropriate Small Claims Court which has jurisdiction to hear and determine the action. Filing of
plaint
- 10 (2) The plaint shall contain the particulars required to be stated by the provisions of section 40 of the Civil Procedure Code and the provisions of section 46 of the Civil Procedure Code shall apply to such plaint filed in the Small Claims Court.
- 15 **8.** The plaintiff shall, on presenting the plaint, file an affidavit or affidavits in support of the facts stated therein and produce the instrument, contract, agreement, bill of exchange, promissory note, cheque or document sued upon and all other documentary evidence relied upon by him, if Affidavit and
exhibits to be
attached to a
plaint
- 20 any, in his possession, or power in support of the facts on which the plaint is based.
- 25 **9.** (1) Before the plaint is accepted, the Small Claims Court may, in its discretion, refuse to entertain the same for any reason and return the same for amendment or reject the plaint, as set out in section 46 of the Civil Procedure Code, in so far as they are not inconsistent with the provisions of this Act. Issue and
service of
summons
- 30 (2) Upon such plaint being accepted, the Small Claims Court shall issue summons in the Form No. 2 set out in the Schedule hereto.

(3) The provisions of Chapter VIII of the Civil Procedure Code shall apply to the issue, service, return and proof of service of the summons or process of the Small Claims Court, insofar as they are not inconsistent with the provisions of this Part.

- 5 **10.** When the defendant appears on the summons returnable day, the Judge shall ask the defendant whether he intends to admit the plaint with or without terms and, if the defendant admits the claim of the plaintiff, the Small Claims Court shall record that fact and enter judgement against the
 10 defendant according to the admission so made. Such admission shall be in writing, signed by the defendant and his signature attested by an attorney-at-law.

Judgment
against the
defendant, if
he admits the
claim of the
plaintiff

- 15 **11.** (1) If the defendant does not admit the plaintiff's claim, he shall, himself, or his registered attorney on his behalf, deliver to the Small Claims Court a duly stamped written answer signed by the defendant or his attorney-at-law setting out his defence and any claim in reconvention which may have against the plaintiff.

Answer and
requisites of
answer

- 20 (2) The answer shall contain the particulars required to be stated under the provisions of section 75 of the Civil Procedure Code and the provisions of sections 76 to 78 of the Civil Procedure Code shall apply to such answer and shall be in the Form No. 3 set out in the Schedule hereto.

- 25 (3) The answer shall be filed within one month from the date of the appearance made by the defendant either in person or by an attorney-at-law and no further time shall be granted by the Small Claims Court to the filing of answer, unless in appropriate circumstances, the Small Claims Court may grant time to file answer in the Registry with notice to the plaintiff
 30 or each of the plaintiffs.

- 12.** The defendant shall, on presenting the answer, file an affidavit or affidavits in support of the answer or the facts stated in the claim in reconvention and produce all

Affidavit and
exhibits to be
attached to
the answer

documents or all other documentary evidence relied upon by him, if any, in his possession or power in support of the defence or facts on which the claim in reconvention is based.

5 **13.** (1) When there is a claim in reconvention, a replication
replication may be permitted to be filed in the Registry
together with an affidavit or affidavits and documents, if
any, and the rules relating to a written answer shall apply to
a replication by the plaintiff.

10 (2) If the plaintiff admits the claim in reconvention, the
Small Claims Court shall record such admission on record
and require the plaintiff to sign the same. The Small Claims
Court may enter judgment against the plaintiff in respect of
such claim in reconvention according to the admission so
made. Such admission shall be in writing, signed by the
15 plaintiff and his signature attested by an attorney-at-law.

20 **14.** Where the claim in reconvention exceeds the
monetary jurisdiction of the Small Claims Court, the Small
Claims Court may, notwithstanding the sum of claim stated
therein is in excess of the monetary jurisdiction of the Small
Claims Court, hear such claim in reconvention and enter
decree according to law, to avoid multiplicity of actions.

25 **15.** All affidavits and the documents which have been
annexed with the answer and the replication shall be served
on the opposing party or parties along with the answer or the
replication. The Small Claims Court may in its discretion
impose costs on the defaulting party.

30 **16.** No application for the amendment of any pleadings
shall be allowed unless the Court is satisfied, for reasons to
be recorded by the Court, that grave and irremediable
injustice will be caused if such amendment is not permitted,
and on no other ground, and that the party so applying has
not been guilty of laches:

Provided that, the Court may at any time, on an application being made by any party, correct any clerical or arithmetical mistakes in the pleadings.

PART III

5 DOCUMENTARY EVIDENCE

17. (1) Any party to the action may make an application on or before the date fixed for settlement in terms of section 22 with notice to all other parties to—

Where a party to the action requests for commissions, reports, certified copies and discovery of documents

- (a) issue commissions;
- 10 (b) call for reports from persons having special and independent knowledge of facts;
- (c) make order for the discovery, production, inspection or admittance of the genuineness of documents by any party thereto of the documents in his possession or power;
- 15 (d) make order for the issuance of certified copies of any documents in the custody of any public officer, public corporation, Provincial Council, any local authority, bank, board, body corporate or
- 20 unincorporate, partnership, hospital, medical institute, court, tribunal or any such similar institution; or
- (e) make such other appropriate orders in respect of the discovery of documents in the possession of
- 25 any third party as he may think fit or desirable on any matter where the parties are at variance.

(2) The party who has obtained an order under subsection (1) shall take steps within two weeks from the date of such order and in the event such party fails to take such steps, the

30 Small Claims Court may, notwithstanding such default and subject to any costs, continue further proceedings.

- 18.** (1) Subject to the provisions of section 17, the provisions of Chapters XVI and XXIX of the Civil Procedure Code shall apply to the discovery, production, inspection, protection or admittance of the genuineness of any document. Discovery, production, inspection, protection or admittance of the genuineness of documents
- 5 (2) The provisions of Chapter XXIX of the Civil Procedure Code shall apply to commissions issued by the Small Claims Court, so far as they are not inconsistent with the provisions of this Act.
- 19.** The provisions of sections 94 to 100 (both inclusive) Interrogatories
- 10 of the Civil Procedure Code, shall not apply to the proceedings in the Small Claims Court.
- 20.** The Small Claims Court, on its own motion or at the request of any party, may permit the documents discovered during the proceedings on matters where the parties are at variance, but not annexed to the plaint or the answer or the replication, to be produced with an affidavit. Documents discovered during the proceedings to be produced together with affidavit
- 15
- 21.** (1) The Small Claims Court shall forthwith on the filing of the answer or replication, if any, fix a date for the settlement within a period of four weeks from the date of the completion of pleadings and it shall be the duty of the Small Claims Court, before the case is fixed for trial, to persuade the parties to arrive at a settlement of the dispute, and record such settlement if any and enter judgement and decree accordingly. If a party fails to be present in person on the date fixed for settlement without sufficient cause, the Small Claims Court may order costs against such defaulting party or parties, unless the parties enter into a settlement on the same day. Settlements
- 20
- (2) Where the Small Claims Court is of the opinion in any appropriate case, with the consent of the parties the final judgement could be pronounced solely on the pleadings, affidavits and documents annexed by the parties without oral evidence and upon hearing all the parties by way of
- 25
- 30

submissions, the Small Claims Court shall pronounce the judgement and enter decree accordingly. If not, the Small Claims Court may fix the case for trial.

22. (1) If the case cannot be settled between the parties, If no settlement, case to be fixed for trial
5 the Small Claims Court shall fix the matter for trial and the provisions of the Civil Procedure Code shall apply to such trial in so far as they are not inconsistent with the provisions of this Act.

- (2) The provisions of Chapter XVIII A of the Civil
10 Procedure Code in respect of pre-trial shall not apply to the proceedings of the Small Claims Court.

PART IV

TRIAL

23. (1) On the date of the trial, the Small Claims Court Trial
15 shall record admissions between the parties. However, for the purposes of these proceedings, it is not imperative to record issues of parties and the Small Claims Court may proceed to hear and determine the dispute in accordance with the provisions of this Act:

- 20 Provided that, in the event the Small Claims Court is of the opinion that issues shall be recorded in view of special matters involved, the Small Claims Court may on its own motion proceed to record the said issues arising out of the pleadings, affidavits and documents, if any, and proceed to
25 hear the action.

(2) The affidavits filed by the parties with the pleadings and additional affidavits filed with the permission of the Small Claims Court, shall be considered as the evidence in chief of the respective party or parties. However, the Small

Claims Court may permit the parties to lead additional evidence, whether oral or documentary, if it deems necessary to obtain such evidence to enable it to pronounce a judgement only where—

- 5 (a) any additional evidence is relevant to the determination of the matters in dispute;
- (b) any additional evidence could not have been obtained and adduced along with pleadings at the first instance with reasonable diligence and best efforts and non- production is beyond the control of such party;
- 10 (c) if any additional evidence to be led is documentary, it is necessary to prove a document of which the genuineness is impeached by the opposing party; and
- 15 (d) in the event the evidence of official witness or any other witness who is unable to testify by way of an affidavit is required to be led, the parties shall takeout summons on the said witness according to the provisions of this Act.
- 20

24. (1) The Small Claims Court, on an application made by any party to the action may permit to call any other witness or witnesses not referred in the pleadings or to produce the documents not annexed to the pleadings in the interest of justice. Further the Small Claims Court may permit the parties to lead further evidence on documents discovered or elicited by way of commissions where it deems necessary.

Small Claims Court may summon any witness or require the production of any document where the parties are at variance

(2) The provisions of sections 121 and 175 of the Civil Procedure Code shall not apply to the proceedings of the Small Claims Court.

(3) Notwithstanding any provision in the Evidence Ordinance (Chapter 14), the provisions of subsections (1),

(2), (3) and (4) of section 151A of the Civil Procedure Code shall, *mutatis mutandis*, apply to examination of a witness on an affidavit, cross examination, re-examination and admissibility and authenticity of any document annexed to such other affidavit in so far as they are not inconsistent with the provisions of this Act.

25. (1) It shall not be necessary to adduce proof of any document tendered to a Small Claims Court or discovered under the provisions of this Act, unless the genuineness of such document is impeached by the opposing party with valid reasons stated therefor according to law.

Proof of documents unnecessary unless it is impeached

(2) In the event that the Small Claims Court, after evidence is led as to the proof of the document, accepts the document, the party who impeached the document shall be liable to pay incurred costs of proving such document, in addition to taxed costs.

26. The provisions of Chapter XX of the Civil Procedure Code shall, insofar as they are not inconsistent with the provisions of this Act, apply to and in relation to the pronouncement of judgement or decree of the Small Claims Court.

Judgement and decree

27. All proceedings in a Small Claims Court shall be concluded as expeditiously as possible in accordance with such law as may be applicable thereto, and a Small Claims Court shall make every effort to conclude the proceedings within eighteen months from the commencement of such proceedings, unless the Judge is prevented from acting accordingly for reasons to be recorded by him.

Expeditious disposal of proceedings

28. The provisions contained in Chapter XII of the Civil Procedure Code, except in relation to any appeal made against any order made on defaults, shall apply in respect of the consequences and cure of default of the parties.

Default of parties

PART V

APPEALS

29. (1) Any person aggrieved by a judgement of the Small Claims Court in any action, proceeding or matter to which he is a party, may prefer an appeal to the High Court for the Province established under Article 154P of the Constitution against such judgement for any error in fact or in law.

Appeal and
stay of
execution
pending
appeal

(2) Any person aggrieved by an order including the order setting aside or refusing to set aside the judgement entered upon default 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 appeal to the High Court for the Province established under Article 154P of the Constitution against such order for the correction of any error in fact or in law, with the leave first had and obtained from such High Court.

(3) The provisions of Chapters LVIII, LIX, LX and LXI of the Civil Procedure Code with reference to appeals, shall, so far as they are not inconsistent with the provisions of this Act apply to appeals from Small Claims Court.

(4) Any application for leave to appeal or final appeal under this Act shall be heard and concluded within a period of twelve months from the preference of such application or appeal, unless the judge is prevented from acting accordingly and reasons to be recorded by him.

PART VI

GENERAL PROVISIONS

30. The provisions of the Evidence Ordinance (Chapter 14) shall apply to proceedings before the Small Claims Court.

Evidence
Ordinance to
apply to
proceedings

31. (1) If any matter should arise for which no provision *Casus*
is made in this Act, the provisions of the Civil Procedure *omissus*
Code governing a like matter shall, with such suitable
adaptations as the justice of the case may require, be adopted
5 and applied, if such provisions are not inconsistent with the
provisions of this Act.

(2) No proceedings in the Small Claims Court shall be
invalidated on account of any technicalities in procedure or
formal defect or irregularity in the pleadings, affidavits or
10 forms, and the Judge of Small Claims Court, in his discretion
and in the interest of justice, shall ensure that such
technicalities will not impede the administration of justice,
unless a substantial prejudice has been caused or occasioned
a failure of justice by such defects or irregularities to the
15 parties.

32. A special roll shall be kept for cases instituted under *A special roll*
the provisions of this Act, where the District Judge functions
as the Judge of the Small Claims Court under this Act.

33. All proceedings pending in the District Court of *Transitional*
20 any judicial district, but before the commencement of the *Provisions*
pre-trial on the day preceding the date of operation of this
Act, in respect of any matter within the jurisdiction of a
Small Claims Court, shall on the date of operation of this
Act stand removed to the appropriate Small Claims Court
25 and such Small Claims Court shall have jurisdiction to take
cognizance of, hear and determine or to continue or complete
the same in accordance with the procedure in which the
action was instituted in such District Court and all orders
made, in respect of every such action before such District
30 Court shall have the same force and effect as if they have
been made by that Small Claims Court.

34. In this Act, unless the context otherwise requires- *Interpretation*

“Civil Procedure Code” means the Civil
Procedure Code (Chapter 101);

“Judicature Act” means the Judicature Act, No. 2 of 1978;

5 “Minister” means the Minister to whom the subject of Justice is assigned under Article 44 or 45 of the Constitution; and

10 “small claim” means a debt, damage or demand referred to in the Seventh Schedule of the Judicature Act, which does not exceed the sum specified or such other amount as may be fixed by the Minister from time to time in terms of subsection (2) of section 29A of the Judicature Act.

15 **35.** 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

SCHEDULE

[section 8(1)]

Form No. 1

PLAINT

IN THE SMALL CLAIMS COURT OF

Case No. :

Date of Complaint:

Nature of claim:

Plaintiff's (s') Name (s):-

Address (es):-

Telephone No. :-

E mail (if any):-

-Vs-

Defendant's (s') name (s):-

Address (es):-

Telephone No. :-

E mail (if known):-

.....

 The plaintiff of the above-named plaintiff (or plaintiffs) appearing
 by attorney-at-law states as follows:-

Brief statement of the circumstances constituting each cause of
 action, including where, how and when it arose-

.....

1.

2.

Value of the claim (without interest):

Interest (if claimed):

Value of the whole claim:

(In case the whole claim exceeds the amount specified by the
 Minister in the Order published in the *Gazette* (which is presently
 Rs. (without interest), the plaintiff may indicate in the
 plaint that he restricts the whole claim to
 (without interest) in order to bring the action within the jurisdiction
 of the Small Claims Court)

.....
 Demand

Signature of plaintiff/plaintiffs
 or

.....
 Signature of the (Plaintiff/ Plaintiffs' Attorney-at-law)

Form No. 2

[section 10(2)]

Form of summons for the service of Summons in an Action on Special Procedure for Small Claims Courts

To the above-named defendant (or defendants)

Whereas the above-named plaintiff has instituted an action against you in this Small Claims Court under the provisions of the Small Claims Courts' Procedure Act, No. of 2022 for a sum of Rs. together with interest at the rate of (state the particulars of the claim) due to him, you are hereby required to file in the Small Claims Court your answer if any, together with an affidavit or affidavits and copies of other documents in your possession and power in support of your defence to the plaint on or before the day of20at 9.00 a.m. and you are hereby required to take notice that in default of your filing answer and affidavit together with any documents on or before the said date the action will be proceeded with and heard *ex parte*.

You are further required, if you do not appear by a registered attorney, to file a memorandum stating an address at which all legal notices may be served.

Attached herewith are:

A copy of the plaint:-

A copy of the affidavit/ affidavits:-

Copies of the following documents:-

1.
2.

By order of the Small Claims Court

(Signed) Registrar

The day of20.....

Form No. 3

[section 12(2)]

ANSWER

IN THE SMALL CLAIMS COURT OF

Case No. :

Date of Plaintiff:

Nature of claim:

Plaintiff's (s') Name (s):-
 Address (es):-
 Telephone No. :-
 E mail (if any):-
 -Vs-
 Defendant's (s') name (s):-
 Address (es):-
 Telephone No. :-
 E mail (if known):-

.....
 The answer of the above-named defendant (or defendants) and
 appearing by attorney-at-law states as follows: -

Brief statement admitting or denying the several averments of the
 plaintiff and setting out in detail plainly and concisely the matters of fact
 and law, and the circumstances of the case upon which the defendant
 means to rely for his defence:-

1.

2.

If the defendant sets up a claim in reconvention which is within
 the jurisdiction of the Small Claims Court, a plain and concise
 statement of the facts constituting the ground of such claim which the
 defendant makes in reconvention: -

1.

2.

If the defendant has relinquished a portion of his counterclaim in
 order to bring the claim within the jurisdiction of the Small Claims
 Court, a statement indicating the amount so relinquished and restricted
 the counterclaim to the amount specified in the Order made by the
 Minister and published in the *Gazette* (without interest).

.....

Value of the counterclaim (without interest):-

Interest (if claimed):-

.....

Demand:-

.....

Signature of defendant
or

.....
Signature of the (defendant / defendant's
Attorney-at-law)

Attached herewith are:

Copy of affidavit/ affidavits

Copies of the following documents

- 1.
- 2.

