



**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]

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA
TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO 5

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)

L.D.-O. 45/2021

AN ACT TO AMEND THE JUDICATURE ACT, NO. 2 OF 1978

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 Judicature (Amendment) Act, No. of 2022. Short title
and date of
operation

5 (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, (hereinafter referred to as the “principal enactment”) is hereby repealed and the following section is substituted therefore :- Replacement
of section 2
of Act, No. 2
of 1978

15 “**The Courts of First Instance** **2.** The Courts of First Instance for the 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 Constitution;
- 20 (c) the District Courts;
- (d) the Family Courts;
- (e) the Small Claims Courts;
- (f) the Magistrates’ Courts; and
- 25 (g) the Primary Courts.”.

3. Section 5 of the principal enactment is hereby repealed and the following section is substituted therefore: -

Replacement
of section 5
of the
principal
enactment

5 “District
Courts,
Family
Courts, Small
Claims
Courts,
Magistrates’
Courts and
Primary
10 Courts

15 5. (1) There shall be in each judicial district of Sri Lanka a “District Court” which shall be deemed to be the “Family Court” when exercising the jurisdiction vested in a Family Court under this Act or any written law, and which shall be deemed to be the “Small Claims Court” when exercising the jurisdiction vested 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 “District Judge”, “Judge of the Family Court”, “Judge of the Small Claims Court”, “Magistrate” and “Judge of the Primary Court” respectively.

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

25 Provided that nothing in this section shall be construed to restrict or curtail the power possessed by every Judge to hold the Court at any convenient place within his territorial jurisdiction.”.

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 Section 5B of the principal enactment is hereby repealed and the following section is substituted therefore: -

Replacement
of section 5B
of the
principal
enactment

30

“Appointment
of the Pre-
Trial Judge

5

5B. (1) The Judicial Service Commission shall appoint a judicial officer from among the 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.

10

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

15

5. Section 6 of the principal enactment is hereby amended by the repeal of subsection (1) thereof and the substitution therefore, of the following: -

Amendment
of section 6
of the
principal
enactment

20

“(1) All District Judges, Judges of the Family 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 by the repeal of subsections (1) and (2) thereof and the substitution therefor, of the following: -

Amendment
of section 8
of the
principal
enactment

30

“(1) The Judicial Service Commission may 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 respectively as the occasion may require.

35

(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 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 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.”.

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

Replacement
of section 19
of the
principal
enactment

“Jurisdiction
of a District
Court

19. Every District Court shall be a court of record and shall within its district have 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 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 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.”.

8. Section 19A of the principal enactment is hereby repealed.

Repeal of section 19A of the 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 enactment

5 “CHAPTER V

FAMILY COURTS

Jurisdiction of Family Courts

10 24. (1) Every Family Court shall be a court of record and shall have sole original 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 and curatorship matters, claims in respect of

15 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 and such other matters provided for by any other written law:

20

25 Provided that anything in the preceding provisions of this subsection shall not affect the provisions of the Kandyan Marriage and Divorce Act (Chapter 113) and the provisions of the Muslim Marriage and Divorce Act (Chapter 115).

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

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.

10 (3) An application for the custody of a minor 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 minors, and charge of their property
25 25. The jurisdiction and powers of District Courts under section 20 as regards the care and custody of persons of unsound mind and mentally deficient persons and the charge of their property shall, in like manner and with the same powers be exercised by a Family Court 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 Counsellor
26. (1) There shall be for every judicial district an officer who shall be called the "Family Counsellor".

5 (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
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
15 District Judge, Judge of the
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
Judge, Judge of the Family Court or Magistrate
30 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

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

Appeals

5

10

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

Transfer cases from one Family Court to another and consolidation

15

20

25

28. (1) In the event of two or more separate proceedings or actions being instituted in respect of the same or substantially the same family dispute in more than one Family Court, 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 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 or expeditiously heard and determined in one Family Court.

30

35

(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 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 so or it be so necessary in the interest of justice and the expeditious disposal of such matters

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:

10 Provided that until such regulations have
 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).

15 (2) The provisions of the Adoption of
 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.”.

10. The following new Chapter is hereby inserted
immediately after Chapter V of the principal enactment and
shall have effect as Chapter VA of that enactment: -

Insertion of
new Chapter
VA in the
principal
enactment

“CHAPTER VA

SMALL CLAIMS COURTS

<p>Jurisdiction of Small Claims Courts</p>	<p>29A. (1) Every Small Claims Court shall be a court of record and shall have exclusive original civil jurisdiction and shall have cognizance of and full power to hear and determine all actions specified in the Seventh Schedule hereto:</p>
<p>10</p> <p>15</p>	<p>Provided however, a Small Claims Court 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 under any other written law.</p>
<p>20</p>	<p>(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 by the Minister from time to time, by an Order published in the <i>Gazette</i>.</p>
<p>25</p>	<p>(3) An Order made under subsection (2) shall not have effect, until it is approved by Parliament and notification of such approval is published in the <i>Gazette</i>.</p>
<p>Procedure before the Small Claims Courts</p> <p>30</p>	<p>29B. The proceedings before any Small Claims Court may be taken by the special procedure for Small Claims Court as provided in the Small Claims Courts’ Procedure Act, No. of 2022 and any other written law.</p>

Order respecting payment of costs and expenses	29C. It shall be lawful for the Judge of every Small Claims Court, in pronouncing his order or judgment in any case, to make such order in respect of the payment of costs and expenses as to him shall appear just and reasonable.
5	
Appeal	29D. (1) Any person who is dissatisfied with any judgment pronounced by any Small Claims Court in any action, proceeding or 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 is situated for any error in law or in fact.
10	
15	
	(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 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 High Court first had and obtained.
20	
25	
	(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 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 correction of any error of law or fact, with the leave of such High Court first had and obtained.
30	
35	

5 (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 so far as they are not inconsistent with the provisions of this Chapter.

10 (5) The Judge of every Small Claims Court shall conform to and execute all such judgements, orders, and decrees of the Supreme Court, Court of Appeal or High Court for the Province established 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 Judge could or might have been executed.

Amicable settlements
20 29E. It shall be the duty of the Judge of the 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 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 new Chapter is hereby inserted immediately after Chapter VI of the principal enactment and shall have effect as Chapter VII of that enactment: -

Insertion of new Chapter VII in the principal enactment

“CHAPTER VII

PRIMARY COURTS

30 Civil jurisdiction 32. (1) Every Primary Court shall, subject to the provisions of any other law, have original civil jurisdiction where the debt, damage,

5 demand or claim does not exceed one thousand five hundred rupees and shall also have jurisdiction in respect of the enforcement of by-laws of local authorities and matters relating to the recovery of revenue of such local authorities.

10 (2) The Primary Courts shall have no jurisdiction in respect of the disputes referred to in the Fourth Schedule hereto, irrespective of the value of such claim.

15 Criminal jurisdiction 33. (1) Every Primary Court shall have exclusive original criminal jurisdiction in respect of such offences as may, by regulation, 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.

20 (2) The Primary Courts shall have sole and exclusive jurisdiction in respect of all offences 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 conciliate disputes 34. (1) Where any civil proceeding or matter is instituted in a Primary Court, it shall be the duty of the Judge of that Primary Court to summon the parties to appear before him and wherever appropriate to make every effort to induce such parties to arrive at a settlement before proceeding to inquiry or trial. Where

35

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, as a decree thereof.

5

(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 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 other law, the offence to which the proceeding or matter relates shall be compounded.

10

15

Appeal

35. (1) Any party aggrieved by any judgment, order, decree, conviction or sentence, entered or imposed after inquiry or trial by a Primary 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:

20

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 and the provisions relating to appeals from a District Court shall apply to an appeal in a civil matter or proceeding.

30

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

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

- 5 Procedure in Primary Courts 36. All proceedings in a Primary Court shall be instituted and conducted as expeditiously 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 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.”.
- 10
- 15 **12.** Section 37 of the principal enactment is hereby repealed and the following section is substituted therefore:- Replacement of section 37 of the principal enactment
- 20 “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 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 amended by the repeal of subsection (4) thereof and the substitution therefore, of the following: - Amendment of section 45 of the principal enactment
- 30 “(4) Every Justice of the Peace and every Unofficial Magistrate appointed under subsections (2) and (3) 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

Primary Court and 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 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.”.

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

Amendment
of section 49
of the
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 the Magistrate’s 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.”.

15. Section 52 of the principal enactment is hereby amended in subsection (1) thereto by the substitution for the words “the District Courts, Small Claims Courts and Magistrates’ Courts”, of the words “the District Courts, Family Courts, Small Claims Courts, Magistrates’ Courts and Primary Courts”.

Amendment
of section 52
of the
principal
enactment

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

Amendment
of section 54
of the
principal
enactment

17. Section 55 of the principal enactment is hereby repealed and the following section is substituted therefore:-

Replacement
of section 55
of the
principal
enactment

“Contempt
proceedings

5

10

15

55. (1) Every District Court, Family Court, 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 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 being in force to be punishable as contempt of court.

20

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

25

(a) by a District Court and Family Court a fine not exceeding two thousand five hundred rupees or imprisonment, either simple or rigorous, for a period not exceeding two years;

30

(b) by a Small Claims Court and Magistrate’s Court – a fine not exceeding one thousand five hundred rupees or imprisonment either simple or rigorous, for a period not exceeding eighteen months; and

- (c) by a Primary Court – a fine not exceeding five hundred rupees or imprisonment, either simple or rigorous, for a period not exceeding three months.”.

18. The following new section is hereby inserted immediately after section 56 of the principal enactment and shall have effect as section 57 of that enactment: -

Insertion of section 57 in the principal 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 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, proceedings or matters in which such Magistrate has commenced the recording of any evidence.”.

19. The principal enactment is hereby amended by the insertion immediately after the Second Schedule thereof, of the following new Schedules: -

Addition of the Third and Fourth Schedules to the principal enactment

“THIRD SCHEDULE

[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)

- (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.

- (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.

- (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;
 - (e) for defamation;
 - (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.

- (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: -

Addition of the Seventh Schedule to the principal enactment

“SEVENTH SCHEDULE

[Section 29A(2)]

Actions

- 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

