



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

**CIVIL PROCEDURE CODE (AMENDMENT)
ACT, No. 11 OF 2010**

[Certified on 05th October, 2010]

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Civil Procedure Code (Amendment)
Act, No. 11 of 2010

[Certified on 05th October, 2010]

L. D. —O. 52/2007.

AN ACT TO AMEND THE CIVIL PROCEDURE CODE

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

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| <p>1. This Act may be cited as the Civil Procedure Code (Amendment) Act, No. 11 of 2010.</p> | <p>Short title.</p> |
| <p>2. Section 338 of the principal enactment is hereby amended in subsection (3) thereof, by the substitution for paragraph (b) thereof, of the following paragraph :—</p> <p style="padding-left: 40px;">‘ “legal representative” means an executor or administrator or in the case of an estate below the value of rupees four million, the next of kin who have adiated the inheritance:</p> <p style="padding-left: 80px;">Provided however, that in the event of any dispute arising as to who is the legal representative the provisions of section 397 shall, <i>mutatis mutandis</i>, apply.’.</p> | <p>Amendment of section 338 of the principal enactment.</p> |
| <p>3. Section 394 of the principal enactment is hereby amended in subsection (2) thereof by the substitution for the definition for the expression “legal representative” of the following definition:—</p> <p style="padding-left: 40px;">‘ “legal representative” means an executor or administrator or in the case of an estate below the value of rupees four million, the next of kin who have adiated the inheritance.’.</p> | <p>Amendment of section 394 of the principal enactment.</p> |
| <p>4. Section 524 of the principal enactment is hereby amended by the repeal of subsection (4) of that section and the substitution therefor, of the following subsection :—</p> <p style="padding-left: 40px;">“(4) The petitioner shall tender with the petition proof of payment of charges to cover the cost of publication of the notice under section 529.”.</p> | <p>Amendment of section 524 of the principal enactment.</p> |

Amendment of section 525 of the principal enactment.

5. Section 525 of the principal enactment is hereby amended by the substitution for the words “five hundred thousand rupees” of the words “four million rupees”.

Amendment of section 527 of the principal enactment.

6. Section 527 of the principal enactment is hereby amended by the substitution, for the words “five hundred thousand rupees” of the words “four million rupees.”

Amendment of section 528 of the principal enactment.

7. Section 528 of the principal enactment is hereby amended in subsection (3) of that section, by the addition immediately after paragraph (b) thereof of the following paragraph :—

“(c) notices on the respondents who have not consented to the application, requiring them to file objections if any, to the application on or before the date specified in the notice under section 529. Such notice shall be sent by the probate officer by registered post.”.

Amendment of section 529 of the principal enactment.

8. Section 529 of the principal enactment is hereby amended as follows:—

- (1) in subsection (2) of that section, by the substitution for the words “incorporating the information relating to—” of the words, “relating to—”;
- (2) in subsection (3) of that section, by the substitution for the words “to any person to whom the notice relates” of the words “to any person specified in the application made under section 524 or 528.

Amendment of section 530 of the principal enactment.

9. Section 530 of the principal enactment is hereby amended by the substitution for the words “named in such notice” of the words “of the deceased”.

Amendment of section 541 of the principal enactment.

10. Section 541 of the principal enactment is hereby amended in subsection (2) of that section by the substitution for the words “the respondents to the original petition for

probate or letters of administration or certificates of heirship” of the words “the heirs of the deceased or other persons who have objected to the application”.

11. Section 545 of the principal enactment is hereby repealed and the following section substituted therefor:—

Amendment of section 545 of the principal enactment.

“No transfer to be effected in certain cases.

545. No person shall effect any transfer of any property movable or immovable, in Sri Lanka, belonging to or included in, the estate or effects of any person dying testate or intestate in or out of Sri Lanka within five years prior to the effecting of the transfer, unless grant of probate has been issued in the case of a person dying testate, or letters of administration or certificates of heirship have been issued in the case of a person dying intestate and leaving an estate amounting to, or exceeding four million rupees in value.”.

12. Section 554 of the principal enactment is hereby amended as follows:—

Amendment of section 554 of the principal enactment.

- (1) in subsection (2) thereof by the substitution for the words “which is over rupees five hundred thousand” of the words “which is over rupees four million,”;
- (2) in subsection (3) thereof for the substitution for the words “which is less than rupees five hundred thousand” of the words “which is less than rupees four million.”.

13. The First Schedule to the principal enactment is hereby amended as follows:—

Amendment to First Schedule to the principal enactment.

- (1) by the substitution for Form 82 thereof of the following Form:—

Civil Procedure Code (Amendment)
Act, No. 11 of 2010

“No. 82

(Section 517/524)

FORM OF APPLICATION FOR PROBATE OR FOR
ADMINISTRATION WITH THE WILL ANNEXED

In the matter of the will of *A. B.* deceased
C. D. of Petitioner

1. *A. B.* late of.....died on the..... day of.....
20.....

2. The said *A. B.* duly executed his last will dated the.....day of
.....20..... (now deposited in this court or and the said will is
appended hereto or as the case is.....see section 524).

3. To the best of your petitioner’s knowledge the heirs of the
said *A. B.*, deceased, are :

4. Full and true particulars of the property left by the deceased, so
far as your petitioner has been able to ascertain the same, are contained
in the Schedule hereto annexed.

5. Your petitioner claims as (executor, creditor, &c., *as the case
is*)

Your petitioner therefore humbly prays for an order declaring the
said will proved, and that he may be declared executor of the said
will, and that probate thereof may be issued to him accordingly (or,
where the case is so, for a grant of administration with copy of the will
annexed, &c.). (If a limited grant is asked for, set out to that effect.)

(Formal conclusion).

SCHEDULE

(Support paragraph 2 and 5 by affidavit or oral evidence. If the
testator died out of Sri Lanka, state that the applicant has obtained an
Order appointing the court to have sole testamentary jurisdiction.)”.

“No 83 (Section 517)

(Formal parts proceed as in last form)
In the matter relating to the will of
A. B. deceased

V

Your petitioner therefore humbly prays for an order declaring that he is entitled as such (creditor, or as the case is) to administer the estate of the said intestate and directing that letters of administration of the said estate or certificates of heirship thereto be granted to him accordingly. (If a limited grant is asked for, set out to that effect).

SCHEDULE

(Support paragraphs 2 and 5 by affidavit or oral evidence and if the deceased died out of Sri Lanka, state that the applicant has obtained an Order appointing the Court to have sole jurisdiction.); and

6 *Civil Procedure Code (Amendment)*
Act, No. 11 of 2010

(3) by the substitution, for Form 84 thereof, of the following Form:—

“No. 84 (Section 529 (2))

FORM OF NOTICE TO BE PUBLISHED BY THE PROBATE
OFFICER

Notice under section.....of the Civil
Procedure Code.

It is hereby notified that the following applications have been made for the proof of will/probate/grant of letters of administration/issue of certificates of heirship, in respect of the estates of the deceased persons described in the Schedule hereto.

Any person having objections to the making of an Order declaring a will proved or the grant of probate or letters of administration with or without a will annexed or the issue of certificates of heirship to the persons named in the petitions, shall make such objections in writing supported by affidavit and filed on or before the dates fixed by the respective District Courts specified below:

SCHEDULE

DISTRICT COURT OF			
<i>Last date for filling of objections:.....day of.....20.....</i>			
SCHEDULE			
<i>Column I</i>	<i>Column II</i>	<i>Column III</i>	<i>Column IV</i>
<i>District Court Registration No.</i>	<i>Name and Address of Deceased</i>	<i>Whether Deceased left will</i>	<i>Name and Address of Applicant</i>

Date:.....

Signed Probate Officer
District Court of.....”.

Sinhala text to prevail in case of inconsistency.

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

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