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SUPPLEMENT

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MEDIATION (CIVIL AND COMMERCIAL DISPUTES)

A

BILL

**to provide for the Mediation of Civil and Commercial Disputes;
to repeal the Commercial Mediation Center of Sri Lanka
Act, No. 44 of 2000; and for matters connected therewith or
incidental thereto**

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Mediation (Civil and Commercial Disputes)

L.D.- O 8/2025

AN ACT TO PROVIDE FOR THE MEDIATION OF CIVIL AND
COMMERCIAL DISPUTES; TO REPEAL THE COMMERCIAL
MEDIATION CENTER OF SRI LANKA ACT, No. 44 OF 2000;
AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL
THERE TO

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 (Civil and Short title
Commercial Disputes) Act, No. of 2025.

5 2. (1) Subject to subsection (2) of this section, the Application
provisions of this Act shall apply to the settlement of of the Act
civil and commercial disputes (hereinafter referred to as
“disputes”) by mediation in accordance with the provisions
of this Act whether in pursuance of a mediation agreement
10 or voluntarily referred to mediation by a party to the dispute,
in the absence of such an agreement or referred by a court
of law.

(2) The provisions of this Act shall not apply to the
settlement of disputes by mediation in terms of the Mediation
15 Boards Act, No. 72 of 1988, or the Mediation (Special
Categories of Disputes) Act, No. 21 of 2003.

(3) No dispute which is required to be submitted to
mediation in terms of the Mediation Boards Act, No. 72 of
1988 or the Mediation (Special Categories of Disputes) Act,
20 No. 21 of 2003, shall be submitted to mediation in terms of
the provisions of this Act.

3. A mediation shall not be conducted in respect of any dispute the settlement of which requires the inclusion of terms that can be given effect to only on a decree or order of court including in respect of any dispute set out in the schedule hereto:

Disputes that cannot be mediated

Provided however, that matters relevant to such disputes may be mediated for the purpose of submitting terms of settlement to court for consideration of incorporation in a judgement, decree or order in compliance with applicable law.

4. (1) Parties may by a mediation agreement which may be either a clause in a contract or a separate agreement in writing, agree to refer for settlement by mediation, any dispute existing or which may arise between them in respect of a defined legal relationship whether contractual or otherwise, which can be settled by mediation.

Mediation Agreement

(2) A mediation agreement may include such terms as are agreed to by the parties with regard to the conduct of the mediation, including the name of the Mediation Service Provider, the rules that shall apply in the conduct of the mediation and the time period within which the mediation shall be concluded.

5. (1) Where parties to a dispute have agreed to mediate in terms of a mediation agreement or where mediation proceedings have commenced in terms of this Act even in the absence of a mediation agreement, notwithstanding anything to the contrary in any other written law, no proceedings in regard to such dispute shall be instituted in or be entertained by a court, unless a certificate of non- settlement in respect of such dispute which constitutes the cause of action in such proceedings, is produced.

Court proceedings not to be instituted or be entertained prior to conclusion of mediation, where parties have agreed to mediate

(2) The provisions of subsection (1) shall not apply where a party to a dispute referred to therein seeks relief in respect of any provisional remedy sought under Part V of the Civil Procedure Code or any other law, and any action
5 instituted in respect of any such matter may be entertained and determined by a Court only in so far as it relates to the grant of such provisional remedy.

6. In computing the period of prescription in respect of any cause of action, the period commencing from the date
10 of commencement of the mediation and ending on the date of the Settlement Agreement, or of the certificate of non-settlement, as the case may be, shall be excluded from such computation, notwithstanding anything to the contrary in any other written law.

Prescription
not to apply
during
mediation

15 7. (1) A court in which an action with regard to any dispute has been filed may, at its discretion upon consideration of all relevant circumstances, determine whether it is appropriate to refer the dispute or any part thereof for settlement by mediation and shall, if so determined, make order referring
20 the dispute or part thereof to mediation administered by a Mediation Service Provider selected by the parties.

Reference to
mediation by
court

(2) The Mediation Service Provider to whom the dispute is referred in terms of subsection (1), shall take steps to appoint a mediator in compliance with the applicable rules
25 and have the mediation concluded within sixty days from the date of receipt of the order of court.

(3) Where during a mediation, it appears that the mediation will not be able to be completed within the period of time referred to in subsection (2) and the mediator
30 and the parties are of the opinion that there are prospects for settlement and wish to continue the mediation beyond such period of time, the Mediation Service Provider shall

be informed accordingly and the parties shall make an application to court requesting a further period that shall be specified, to complete the mediation and the mediator shall proceed with the mediation.

- 5 (4) Upon the expiry of the further period of time granted by court under subsection (3), the parties or the Mediation Service Provider as the case may be, shall proceed in compliance with subsection (5) or (6) as applicable.

- (5) Where upon such a referral made by court, a
 10 Settlement Agreement is entered into pursuant to mediation, the Settlement Agreement together with the documents referred to in section 23 shall be filed in court by the parties and the terms thereof shall be entered as a decree of court, unless a party to the Settlement Agreement establishes that a
 15 decree shall not be entered on any ground set out in section 26 in which event, the court shall proceed to hear and determine the matter as if no settlement was reached.

- (6) Where upon such a referral made by court, a settlement is not reached, the Mediation Service Provider
 20 shall report to court accordingly, and if a settlement was not possible due to the absence of a party, shall state such fact giving details of notices sent to such party and the dates of absence of such party, whereupon the court shall proceed to hear and determine the matter.

- 25 **8. (1)** A mediation of a dispute shall be initiated –

How a mediation can be initiated

- (a) where there is a mediation agreement and a Mediation Service Provider is named therein, by a party to the dispute by written notice to such Mediation Service Provider, that a dispute has arisen, and requesting that
 30 mediation proceedings be commenced and

forwarding a copy of the Notice to the other party or parties to the dispute; or

5 (b) where there is a mediation agreement and a Mediation Service Provider is not named therein, by a party forwarding to the other party or parties to the dispute, a written notice that the dispute will be referred to mediation and nominating a Mediation Service Provider to whom a copy of such
10 notice shall be forwarded; or

(c) where there is no mediation agreement-

(i) by the parties to the dispute jointly forwarding to an agreed Mediation Service Provider, a written notice
15 to commence mediation which may contain a nomination of a mediator if agreed upon; or

(ii) a party forwarding to the other party or parties to the dispute, an invitation
20 to refer the dispute to mediation and nominating a Mediation Service Provider to whom a copy of such invitation shall be forwarded.

(2) If the party that invited the other party or
25 parties to refer the dispute to mediation as provided for in sub - paragraph (ii) of paragraph (c) of subsection (1) does not receive an acceptance of the invitation within a period of thirty days from the date of transmission of the invitation or such other period of time as specified in the invitation, the
30 party forwarding the invitation may consider it as a rejection of the invitation.

(3) Where mediation of a dispute is initiated by a party in terms of subsection (1) above, the Mediation Service Provider shall, on receipt of the notice, forthwith proceed to take such steps as are necessary to appoint a mediator and to
5 commence the mediation.

9. (1) For the purpose of conducting a mediation, there shall be one mediator unless the parties agree that there shall be two or more mediators. Appointment of mediator

(2) The parties shall endeavour to reach an agreement
10 on a mediator and in the event that the parties are unable to agree, the Mediation Service Provider shall appoint one or more mediators taking into consideration the nature of the dispute, the preferences of the parties and the qualifications, suitability and availability of the appointee.

10. Mediation of a dispute shall be deemed to have commenced on the date of appointment of the mediator. Commencement of a mediation

11. A court shall, in awarding costs in any action or proceeding relating to a civil or commercial dispute, take into account whether any party has unreasonably refused to
20 participate in mediation. Liability to costs for unreasonable refusal to mediate

12. It shall be the obligation and the responsibility of the parties to a mediation to attempt in good faith to settle the dispute by mediation, maintain confidentiality in compliance with the provisions set out in this Act and to comply with the
25 rules applicable to the conduct of a mediation. Obligation of parties to a mediation

13. (1) A party to a dispute shall be entitled and required to engage directly during all stages of the mediation and shall not be represented by any other person. A party to engage in the mediation directly.

(2) A party may opt to be accompanied at the
30 mediation by any other person who can assist the party to

reach a solution including an Attorney-at-Law and such other person may, at the request of such party make statements on behalf of the party, subject to the management and control of the mediation process by the mediator.

- 5 (3) A party which is a corporate or statutory body or other entity with legal personality or a government department or other institution, shall be represented by an officer with due level of authority granted in writing, to speak on behalf of the party to reach a settlement and to
10 agree to a settlement.

14. (1) A Mediation Service Provider shall provide administrative support to the mediator for the conduct of the mediation and shall, for such purpose comply with the following requirements :-

Obligations
of Mediation
Service
Providers

- 15 (a) adopt such rules as are necessary for the conduct of mediations, including but not limited to the procedure for the appointment of mediators, the observance of the law relating to confidentiality and without prejudice, the
20 observance of the principle of party autonomy, the integrity of the mediation process, the roles of the parties and of the mediator and the conduct of the mediation process; and
- 25 (b) adopt a code of ethics for mediators that shall include the requirements set out in section 15.

- (2) A Mediation Service Provider that has not adopted rules and a Code of ethics as set out in paragraphs (a) and (b) of subsection (1) respectively, shall not entertain applications or requests for the administration of mediation services and
30 shall not administer mediation services.

15. A mediator shall at all times ensure that the integrity of the mediation process is maintained and shall, for that purpose observe the following in the conduct of mediations :-

Obligations of
mediators

- 5 (a) explain to the parties the mediation process, the non-coercive role of the mediator and the role expected of the parties;
- 10 (b) use such skills and techniques as are appropriate to assist the parties to reach an informed and voluntary solution which is acceptable, and not impose upon them a solution to the dispute;
- (c) conduct the mediation in a timely, fair, impartial, neutral and cost-effective manner;
- (d) maintain the trust of the disputing parties at all times of the mediation;
- 15 (e) conduct as many mediation conferences as may be necessary with all the parties jointly, as well as separately, as are considered to be appropriate in the circumstances;
- 20 (f) avoid a conflict of interest or an appearance of a conflict of interest during and after the mediation and for that purpose decline or offer to withdraw from the mediation if circumstances prevent an avoidance of real or perceived conflict;
- 25 (g) disclose to the parties any actual or perceived conflict of interest immediately on becoming aware of such a situation whether prior to accepting the appointment as a mediator or at any time during the mediation, and accept the role of mediator or continue in the role only with the written consent of the parties;
- 30

- 5 (h) maintain the confidentiality of a mediation in compliance with the provisions of section 16, including any information disclosed by a party on the specific condition that such information should be kept confidential and should not be divulged to the other party or parties, and also with regard to notes maintained during the mediation process;
- (i) comply with the provisions of the applicable code of conduct for mediators; and
- 10 (j) conduct the mediation in compliance with such terms as are agreed to by the parties.

15 **16.** (1) Subject to the provisions of subsection (3), a mediator, the parties to the mediation and all other persons that participate in a mediation for the settlement of a dispute shall maintain confidentiality with regard to matters discussed during the mediation, including the following: -

Confidentiality
of mediation
proceedings

- (a) statements made, opinions expressed, options and proposals for settlement generated by a party;
- 20 (b) interpretations offered by any party or any professional;
- (c) an invitation by a party to engage in mediation or the fact that a party was willing to participate in mediation;
- 25 (d) the fact that a party had or had not been willing to accept any proposals made for settlement;
- (e) a document prepared primarily for mediation.

(2) Subject to the provisions of subsection (3), all statements made by any person with regard to any matter referred to in subsection (1), during a mediation shall be made without prejudice, and shall not be admissible in evidence
5 in any court of law or in any arbitration or other dispute resolution process except where disclosure is required under the law or for the purposes of implementation or enforcement of the Settlement Agreement, and accordingly, no party to a mediation shall seek to introduce any such
10 matter in evidence in any court, arbitration or other process and the court, Arbitral tribunal or other authority shall not take cognizance of such matters. .

(3) Evidence that is otherwise admissible in arbitral, judicial or other dispute resolution proceedings shall not
15 become inadmissible as a consequence of having been used or disclosed in a mediation.

(4) No person, including the parties to the mediation, the Mediation Service Provider and the mediator, shall make an audio or video recording of mediation proceedings
20 whether conducted in person or virtually.

17. A mediation shall be terminated-

Termination
of a mediation

- (a) when the parties have signed a Settlement Agreement; or
- (b) where the mediator makes a declaration that the
25 mediation is terminated without a settlement, in any of the following circumstances :-
 - (i) that considering the progress of the mediation, further attempts at mediation are futile and are unlikely
30 to result in a resolution of the dispute;

(ii) where a party informs the mediator in writing that the party is withdrawing from the mediation; or

5 (iii) where all the parties inform the mediator in writing that they wish to terminate the mediation proceedings.

10 **18. (1)** Where the parties have reached an agreement on the terms of settlement, the mediator shall, after being satisfied that the parties clearly understand the terms of settlement and obligations arising therefrom, ensure that the terms of the settlement are set out in writing in a Settlement Agreement which shall be signed by the parties. Settlement Agreement

15 (2) The Settlement Agreement so signed by the parties, shall be attested either by the mediator or an authorized official of the Mediation Service Provider confirming that such Settlement Agreement was reached as a result of mediation and originals thereof shall be issued to each of the parties.

20 **19. (1)** A Settlement Agreement shall be binding between the parties to such Settlement Agreement, and enforceable in law as a valid contract: Binding nature of Settlement Agreement

Provided however, that the terms of a Settlement Agreement shall not affect the rights of persons who are not parties to the Settlement Agreement.

25 (2) Where a party to a Settlement Agreement institutes legal proceedings in a court against another party to such agreement in respect of a matter which has been settled in terms of such Settlement Agreement, the court shall have no jurisdiction to hear and determine such matter.

20. (1) Where in any court proceeding, a dispute arises concerning a matter which a party to such proceedings claims has already been settled in terms of a mediated Settlement Agreement, subject to the provisions of subsection (2), such Settlement Agreement shall be admissible as evidence to establish that such matter has already been settled.

Admissibility
of a
Settlement
Agreement in
court
proceedings

(2) Where in any court proceeding, an application is made to admit a Settlement Agreement as evidence, the application shall be allowed and the validity of the Settlement Agreement shall not be permitted to be challenged in such proceedings unless the High Court has, upon an application made by a party to the Settlement Agreement in terms of section 22 made an Order refusing the grant of a decree of court in respect of that Settlement Agreement in terms of section 26.

(3) Where in any court proceeding, an application is made to admit a Settlement Agreement as evidence and a party to that Settlement Agreement objects to its admission and an application for a decree of court has not been made under section 22 by either party, or an Order of court is pending upon such an application having been made by a party, the court shall, as the case may be-

(a) make order directing the party seeking to admit such Settlement Agreement to make an application in terms of section 22 to have the settlement entered as a decree of court and stay the proceedings; or

(b) stay the proceedings until the Order is made by the High Court.

(4) A party to whom an Order is issued under paragraph (a) of subsection (3), shall take necessary steps to

make an application in terms of section 22 of the Act within thirty days of making of such Order, notwithstanding the time limit referred to in section 22.

21. (1) Where the mediator declares that the mediation is
5 terminated without a settlement, the mediator shall sign and issue a certificate of non-settlement to each of the parties, in which shall be contained a brief account of the dispute and a statement that the said dispute was referred for settlement by mediation and a settlement was not reached and shall, if
10 the mediation was not able to be proceeded with, due to the absence of a party despite notices being forwarded requiring attendance at the mediation, state such fact therein giving details of notices sent and the dates of absence of such party.

Certificate of non - settlement

(2) A certificate of non - settlement shall be admissible
15 in evidence as being final and conclusive to establish that the dispute referred to therein was referred to mediation and that a settlement thereof was not possible.

22. (1) A party, to a Settlement Agreement may, within
twelve months from the date of the Settlement Agreement,
20 make an application to the High Court to have the settlement entered as a decree of court.

Application to have the settlement entered as a decree of court

(2) Any right or remedy available to a party to a Settlement Agreement that exists or may arise in terms of such agreement shall not be affected, limited or restricted by
25 an application made by such party under subsection (1) or by the fact that no such application was made.

23. A party seeking to admit a Settlement Agreement for the purposes of section 20 or making an application under section 22, shall submit to the High Court or any other court,
30 as the case may be, the original or a duly certified copy of the Settlement Agreement signed by the parties and attested

Documents to be produced in court

by the mediator or an authorized official of the Mediation Service Provider confirming that such Settlement Agreement was reached as a result of mediation.

24. (1) Every application to the High Court under section 22 shall be made by way of petition and affidavit, and all parties to the Settlement Agreement other than the petitioner or petitioners shall be named as respondents to such petition and shall be given notice of the same: Proceedings before the High Court

Provided however, a mediator or any official of the Mediation Service Provider who has attested the Settlement Agreement shall not be considered as a party to the Settlement Agreement and shall not be named as respondents.

- (2) Upon the petition and affidavit being presented, the High Court shall grant the respondents a date within two weeks of such presentation to state their objections, if any, in writing supported by affidavit, and to make available copies thereof to the petitioner, and shall appoint a day within two weeks of such date granted to the respondents, for the determination of the matters set out in the petition.

- (3) Evidence shall be given by way of affidavit in proceedings before the High Court:

Provided however, where the High Court deems fit, it may take evidence *viva voce* in addition to evidence given by affidavit.

25. The court may presume that the signature of a mediator or an authorized official of the Mediation Service Provider placed on a Settlement Agreement or a certificate of non-settlement produced to court is genuine and it shall not call such person as a witness in proof thereof. Mediator or official not to be called as witnesses to signature

26. (1) The High Court, to which an application is made by a party in terms of section 22, may refuse to grant a decree of court in respect of the Settlement Agreement if it is established by any other party to that agreement that-

Grounds for
refusing a
decree of
court

- 5 (a) a party to the Settlement Agreement was under some incapacity;
- (b) the Settlement Agreement is not final, according to its terms;
- 10 (c) the obligations of the Settlement Agreement-
- (i) have been duly performed; or
- (ii) are not clear or comprehensible;
- 15 (d) there was a serious breach by the mediator of the standards applicable to the mediator, or the mediation, without which breach that party would not have entered into the Settlement Agreement; or
- 20 (e) there was a failure by the mediator to comply with the duty of disclosure of a conflict of interest as set out in section 15(2)(g), and the failure to disclose had a material impact or undue influence on that party without which failure that party would not have entered into the Settlement Agreement.
- 25

(2) The court may also refuse to grant a decree if it finds that-

- (a) the granting of a decree would be contrary to the public policy of Sri Lanka; or
- 5 (b) the subject matter of the dispute is not capable of settlement by mediation under the laws of Sri Lanka.

27. (1) Where an application is made in terms of section 22 and no grounds have been established to refuse the grant of the decree prayed for, the court shall, on a day of which notice shall be given to the parties, proceed to enter judgement according to the said agreement whereupon a decree shall be entered. Entering a decree of court

(2) Where a Settlement Agreement has been recorded as a decree of the High Court, it may be enforced in the same manner as a decree entered under the provisions of the Civil Procedure Code (Chapter 101) and accordingly the provisions of Chapter XXII of the Civil Procedure Code relating to the execution of decrees shall, *mutatis mutandis*, apply to such enforcement.

28. (1) The Commercial Mediation Center of Sri Lanka Act, No. 44 of 2000 is hereby repealed. Repeals and savings

(2) Notwithstanding the repeal of the Commercial Mediation Center of Sri Lanka Act, No.44 of 2000, all assets and liabilities of the Commercial Mediation Center of Sri Lanka which are subsisting on the day preceding the date of commencement of this Act shall with effect from the date of commencement of this Act, vest in the State.

29. In this Act-

Interpretation

- 5 “High Court” means the relevant High Court established for the Province by Article 154P of the Constitution and exercising civil jurisdiction under the High Court of the Provinces (Special Provisions) Act, No. 10 of 1996;
- 10 “in writing” shall mean the recording of any content in any form including an electronic communication where the information contained therein is accessible for subsequent reference;
- 15 “Mediation” means a process, irrespective of the expression used or the basis upon which the process is carried out, whereby parties attempt to reach an amicable settlement of their dispute with the assistance of a third party neutral person or persons (“the mediator”) lacking the authority to impose
- 20 upon the parties a solution to the dispute;
- “Mediation Service Provider” means a person or entity that provides services for the administration of mediations;
- 25 “Mediator” shall mean the third party neutral person appointed to assist in settling a dispute by mediation and shall include a single Mediator or more than one Mediator.

- 30 **30. 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 3]

1. Disputes seeking a dissolution of marriage.
2. Disputes seeking a Declaration of nullity of marriage.
3. Disputes relating to persons and estates of persons of unsound mind, minors and wards.
4. Disputes relating to guardians, curators and receivers.
5. Disputes relating to the adoption of children.
6. Disputes relating to the registration of births and deaths.
7. Disputes seeking a partitioning of immovable property to obtain rights in rem.
8. Disputes regarding the issue of Probate and Letters of Administration.
9. Disputes seeking relief under the Insolvency Ordinance.
10. Disputes regarding Admiralty matters relating to rights in rem.
11. Disputes alleging a breach of fundamental rights by executive or administrative action.

