



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

JUDICATURE (AMENDMENT)
ACT, No. 71 OF 1981

[Certified on 18th November, 1981]

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Judicature (Amendment) Act, No. 71 of 1981

[Certified on 18th November, 1981]

L. D.—O. 11/81.

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. This Act may be cited as the Judicature (Amendment) Act, No. 71 of 1981, and shall come into operation on such date as may be appointed by the Minister by Order published in the *Gazette*.

Short title
and date of
operation.

2. Section 4 of the Judicature Act, No. 2 of 1978 (hereinafter referred to as the "principal enactment") is hereby amended by the substitution, for the words "not more than sixteen Judges", of the words "not more than twenty Judges".

Amendment
of section 4
of Act No. 2
of 1978.

3. Section 5 of the principal enactment is hereby amended as follows:—

Amendment
of section 5
of the
principal
enactment.

(a) by the repeal of subsection (1) thereof and the substitution therefor, of the following subsection:—

'(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 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 holden by and before a person to be called the "District Judge and Judge of the Family Court", "Magistrate" and "Judge of the Primary Court" respectively.'; and

(b) by the repeal of subsection (2) of that section.

4. Section 6 of the principal enactment is hereby amended by the substitution for subsection (1) thereof, of the following subsection:—

Amendment
of section 6
of the
principal
enactment.

"(1) Every District Judge and Judge of the Family Court, Magistrate, and Judge of the Primary Court and all such Additional Judges and Magistrates of such courts shall be appointed to their offices by the Judicial Service Commission."

Replacement
of section 8
of the
principal
enactment.

5. Section 8 of the principal enactment is hereby repealed and the following section substituted therefor:—

"Appoint-
ment
of additional
Judges, &c.

8. (1) The Judicial Service Commission may appoint as many additional District Judges and Judges of the Family Courts, Magistrates or Judges of the Primary Court to the same District Court, Family Court, Magistrate's Court, and Primary Court respectively as the occasion may require.

(2) Every Additional District Judge and Judge of the Family Court, Magistrate, or Judge of the Primary Court, appointed to any such Court, shall sit separately and exercise all the powers or jurisdiction vested in the District Court, Family Court, Magistrate's Court and Primary Court, respectively of that district or division, as the case may be, for which such Additional District Judge and Judge of the Family Court, Magistrate or Judge of the Primary Court, is so appointed."

Amendment
of section 9
of the
principal
enactment.

6. Section 9 of the principal enactment is hereby amended in subsection (2) thereof, as follows:—

(a) in paragraph (b) of that subsection, by the substitution, for the words "nominated by the President of the Court of Appeal", of the words "nominated by the Chief Justice"; and

(b) in the proviso to paragraph (b) of that subsection, by the substitution, for the words "the President of the Court of Appeal may", of the words "the Chief Justice may".

Amendment
of section 17
of the
principal
enactment.

7. Section 17 of the principal enactment is hereby amended by the substitution, for the words "and the President of the Court of Appeal may", of the words "and the Chief Justice may".

Amendment
of section 24
of the
principal
enactment.

8. Section 24 of the principal enactment is hereby amended in subsection (1) thereof, by the substitution for the words "damages for adultery, claims for maintenance and alimony", of the words "damages for adultery, claims for alimony,".

9. Section 26 of the principal enactment, as amended by Act No. 37 of 1979, is hereby further amended as follows :—

Amendment
of section 26
of the
principal
enactment

- (i) by the repeal of subsection (1) thereof and the substitution therefor of the following subsection :—

“(1) There shall be for every judicial district an officer who shall be called the “Family Counsellor” ;

- (ii) by the repeal of subsection (5) thereof ;

- (iii) by the re-numbering of subsections (2), (3) and (4) thereof as subsections (3), (4) and (5) of that section ; and

- (iv) by the insertion immediately after subsection (1) thereof, of the following subsection :—

“(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 and Judge of the Family Court or Magistrate, as the case may be, such District Judge and 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 Family Counsellor, who—

(a) shall make every effort to induce the parties to settle such dispute ; and

(b) shall submit his report thereon to the District Judge and Judge of the Family Court or Magistrate, as the case may be, within such time as may be specified by such District Judge and Judge of the Family Court or Magistrate ”.

10. Section 29 of the principal enactment, as amended by Act No. 37 of 1979, is hereby further amended by the repeal of subsection (2) thereof and the substitution therefor, of the following subsection :—

Amendment
of section 29
of the
principal
enactment

“(2) The provisions of the Adoption of Children Ordinance governing the institution and conduct of proceedings under such Ordinance shall be deemed to apply to such proceedings that may be instituted in the Family Court.”.

Amendment
of section 45
of the
principal
enactment.

11. Section 45 of the principal enactment is hereby amended in subsection (4) thereof, by the substitution, for the words "before a Judge of the High Court, District Judge, Judge of the Family Court or Magistrate," of the words "before a Judge of the High Court, District Judge and Judge of the Family Court of Magistrate,".

Amendment
of the Third
Schedule to
the principal
enactment.

12. The Third Schedule to the principal enactment is hereby amended by the omission of the item "Maintenance Ordinance (Chapter 91) " from that Schedule.

Amendment
of the Fourth
Schedule to
the principal
enactment.

13. The Fourth Schedule to the principal enactment is hereby amended by the omission of paragraph (28) from that Schedule.

Transitional
provisions.

14. All proceedings pending in the Family Courts in respect of any application for maintenance on the day preceding the date on which the provisions of this Act are brought into operation, shall stand removed to the appropriate Magistrate's Court and such Court shall have jurisdiction to take cognizance of, hear and determine or to continue and complete the same, and the judgments and orders of the aforesaid Family Courts delivered or made before the date on which the provisions of this Act are brought into operation shall have the same force and effect as if they had been delivered or made by the appropriate Magistrate's Court.

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