

CHAPTER 17

JUDICATURE

Acts
Nos. 2 of 1978,
37 of 1979.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND CONSTITUTION OF A SYSTEM OF COURTS OF FIRST INSTANCE IN TERMS OF ARTICLE 105 (1) OF THE CONSTITUTION, TO DEFINE THE JURISDICTION OF AND TO REGULATE THE PROCEDURE IN AND BEFORE SUCH COURTS, AND TO PROVIDE FOR MATTERS CONNECTED WITH OR INCIDENTAL TO THE MATTERS AFORESAID.

[2nd July, 1979.]

Short title.

1. This Act may be cited as the Judicature Act. sixteen Judges each of whom shall be known as a " Judge of the High Court "

CHAPTER I

COURTS AND THEIR TERRITORIAL LIMITS

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 District Courts ;
- (c) the Family Courts ;
- (d) the Magistrates' Courts ;
- (e) the Primary Courts.

Division of Sri
Lanka for
judicial
purposes.

3. For the purpose of the administration of justice Sri Lanka shall be divided into judicial zones, judicial districts and judicial divisions within such territorial limits as may in consultation with the Chief Justice and the President of the Court of Appeal from time to time be determined by the Minister by Order published in the Gazette :

Provided that the judicial zones, districts and divisions and their respective territorial limits as were in existence on the day preceding the date on which the provisions of this section are brought into operation * shall continue to be the zones, districts and divisions and their respective territorial limits under this Act until such Order of the Minister is published in the Gazette.

CHAPTER II

ESTABLISHMENT OF THE COURTS OF FIRST INSTANCE

Composition of
the High
Court.

4. The High Court of the Republic of Sri Lanka shall be a court of record and shall consist of not less than ten and not more than

5. (1) There shall be in each judicial district of Sri Lanka a "District Court" and a "Family Court" 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 one person to be called the "District Judge", "Judge of the Family Court", "Magistrate" and "Judge of the Primary Court", respectively.

District Courts,
Family Courts,
Magistrates'
Courts, and
Primary
Courts.

(2) Where a Judge of a Family Court of any judicial district is not appointed, the District Judge of the judicial district shall function as the Judge of the Family Court of that judicial district and shall be deemed for all purposes to be the Judge of the Family Court of that judicial district and shall exercise all the powers and jurisdiction vested in the Family Court.

(3) 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 :

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

6. (1) All District Judges, Judges of the Family Courts, Magistrates and Judges of the Primary Courts and all such Additional Judges and Magistrates of such courts shall be appointed to their offices by the Judicial Service Commission.

Appointment
and retirement
of Judges.

* 1st July, 1979

(2) Every person appointed to be or to act as a Judge or Magistrate, as the case may be, of a Court of First Instance shall before he enters upon his office take and subscribe or make and subscribe the oath or affirmation of office prescribed in the First Schedule hereto.

(3) The age of retirement of a Judge of the High Court shall be sixty-one years.

(4) The age of retirement of all other Judges and Magistrates shall be as provided by rules made under the Public and Judicial Officers (Retirement) Ordinance.

Salaries of the Judges of the High Court.

7. The salaries of the Judges of the High Court shall be charged on the Consolidated Fund.

Appointment of additional Judges, &c.

8. (1) The Judicial Service Commission may appoint as many additional District Judges, Judges of the Family Court, 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, 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, Judge of the Family Court, Magistrate or Judge of the Primary Court, is so appointed.

(b) any offence committed by any person on or over the territorial waters of Sri Lanka ;

(c) any offence committed by any person in the air space of Sri Lanka ;

(d) any offence committed by any person on the high seas where such offence is piracy by the law of nations ;

(e) any offence wherever committed by any person on board or in relation to any ship or any aircraft of whatever category registered in Sri Lanka ; or

(f) any offence wherever committed by any person, who is a citizen of Sri Lanka, in any place outside the territory of Sri Lanka or on board or in relation to any ship or aircraft of whatever category.

(2) The jurisdiction of the High Court shall subject to the provisions of any other law—

(a) in respect of any offence committed wholly or partly in Sri Lanka referred to in paragraph (a) of subsection (1), be ordinarily exercised by the High Court holden in a judicial zone within which such offence was wholly or partly committed ;

(b) in respect of any offence committed in any place referred to in paragraphs (b) to (f) of subsection (1) shall be exercised by the High Court holden in the judicial zone nominated by the President of the Court of Appeal by a direction in writing under his hand :

CHAPTER III

THE HIGH COURT OF THE REPUBLIC OF SRI LANKA

Criminal jurisdiction.

9. (1) The High Court shall ordinarily have the power and authority and is hereby required to hear, try and determine in the manner provided for by written law all prosecutions on indictment instituted therein against any person in respect of—

(a) any offence wholly or partly committed in Sri Lanka ;

Provided that the President of the Court of Appeal may, if he deems fit, direct by writing under his hand that the High Court holden in any zone nominated by him shall hear and determine any offence referred to in paragraph (a) would ordinarily have been heard and determined by the High Court holden in any other judicial zone.

10. The Judges of the High Court may impose any sentence or other penalty prescribed by written law. Sentence.

Trial by jury
and other trials

11. (1) Trial in the High Court shall be by jury before a Judge of the High Court where—

- (a) at least one of the charges is for an offence referred to in the Second Schedule hereto; or
- (b) the Attorney-General in any other case so determines in accordance with the law for the time being.

(2) All other trials shall be before a Judge of the High Court sitting alone without a jury.

Trials at Bar.

12. (1) Notwithstanding anything to the contrary in this Act or any other written law, trials at Bar shall be held by the High Court in accordance with the law for the time being in force for offences punishable under the Penal Code and other laws.

(2) The Chief Justice shall nominate a Bench of three Judges of the High Court naming one of them as the Chairman and also specifying the zone where such trial shall be held :

Provided that the Chief Justice shall not by reason of the fact that he has made an order under this subsection be disqualified or precluded from hearing any appeal to the Supreme Court in any matter which is the subject of a direction made by him under this subsection.

Admiralty
jurisdiction.

13. (1) Admiralty jurisdiction is hereby vested in the High Court and shall ordinarily be exercised by a Judge of the High Court sitting in the judicial zone of Colombo :

Provided that the Minister may by Order published in the Gazette empower a Judge of the High Court sitting in any other judicial zone also to exercise Admiralty jurisdiction and define the territorial limits and the territorial waters,* if any, adjacent thereto for the purpose of the exercise of such jurisdiction.

(2) The Admiralty jurisdiction vested in the High Court shall be as provided for by law for the time being in force.

(3) (a) Any person who is dissatisfied with any final judgment given in the exercise of Admiralty jurisdiction may prefer an appeal to the Court of Appeal against such judgment for any error in fact or in law.

(b) Any person who is dissatisfied with any order made in the exercise of Admiralty jurisdiction may appeal against such order to the Court of Appeal for the correction of any error in fact or in law with the leave of the Court of Appeal first had and obtained.

(c) Every appeal to the Court of Appeal and every application for leave to appeal shall be made as nearly as may be in accordance with the procedure prescribed by the Civil Procedure Code.

14. Any person who stands convicted of any offence by the High Court may appeal therefrom to the Court of Appeal—

Right of appeal
in criminal
cases.

(a) in a case tried with a jury—

- (i) against his conviction on any ground which involves a question of law alone; or
- (ii) against his conviction on any ground which involves a question of fact alone, or a question of mixed law and fact; or
- (iii) with the leave of the Court of Appeal against the sentence passed on his conviction, unless the sentence is one fixed by law;

(b) in a case tried without a jury, as of right, from any conviction or sentence except in the case where—

- (i) the accused has pleaded guilty; or
- (ii) the sentence is for a period of imprisonment of one month of whatsoever nature or a fine not exceeding one hundred rupees :

Provided that in every such case there shall be an appeal on a question of law or where the accused has pleaded guilty on the question of sentence only.

* See also sections 2 and 11 of the Maritime Zones Law.

Right of the Attorney-General to appeal in criminal cases.

15. The Attorney-General may appeal to the Court of Appeal in the following cases :—

(a) from an order of acquittal by a High Court—

- (i) on a question of law alone in a trial with or without a jury ;
- (ii) on a question of fact alone or on a question of mixed law and fact with leave of the Court of Appeal first had and obtained in a trial without a jury ;

(b) in all cases on the ground of inadequacy or illegality of the sentence imposed or illegality of any other order of the High Court.

Right of party aggrieved to appeal in criminal cases.

16. (1) A person aggrieved by a judgment, order or sentence of the High Court in criminal cases may appeal to the Court of Appeal with the leave of such court first had and obtained in all cases in which the Attorney-General has a right of appeal under this Chapter.

(2) In this section “a person aggrieved” shall mean any person whose person or property has been the subject of the alleged offence in respect of which the Attorney-General might have appealed under this Chapter and shall, if such person be dead, include his next of kin namely his surviving spouse, children, parents or further descendants or brothers or sisters.

(3) Nothing in this section shall in any way affect the power of the Court of Appeal to act by way of revision in an appropriate case.

Sittings of the High Court.

17. The High Court may subject to the provisions of this Act exercise its jurisdiction within any of the judicial zones specified and in existence under the provisions of section 3, and the President of the Court of Appeal may from time to time nominate and assign by writing under his hand a Judge of the High Court to exercise such jurisdiction of the High Court at sittings in the zone, as specified in such writing.

18. The High Court shall have power and authority to take cognizance of and try in a summary manner any offence of contempt committed against or in disrespect of its authority, and on conviction to commit the offender to jail for a period not exceeding five years. Such imprisonment shall be simple or rigorous as the court shall direct and the offender may, in addition thereto, or in lieu thereof, in the discretion of the court be sentenced to pay a fine not exceeding five thousand rupees.

Contempt of High Court'

CHAPTER IV

DISTRICT COURTS *

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 except such of the aforesaid matters as are by this Act or any other written law 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 in any other matter in which jurisdiction has heretofore been, is now, and may hereafter be given to District Courts by law.

Jurisdiction of District Courts.

20. (1) Every District Court shall have the care and custody of the persons and estates of all idiots and persons of unsound mind and others who by reason of their mental or physical infirmities, or both such infirmities, are incapable of looking after or managing their persons or their affairs as the case may be and are resident within its district with full power to make them wards of the court and to appoint guardians and curators of all such persons and their estates, and to make order for the maintenance of such persons and the proper management of their estates, and to take proper securities for such management from such guardians and curators, and to call them to account, and to charge them with any balance which may be

Custody of persons and estates of idiots, persons of unsound mind, &c.

* Under a subsequent amendment effected to the Judicature Act by Act No. 71 of 1981, every District Court shall be deemed to be a Family Court when exercising jurisdiction vested in a Family Court under the Judicature Act or any other written law.

due to any such persons as aforesaid, or to their estates, and to enforce the payment thereof and to take order for the secure investment of any such balance; and such guardians and curators from time to time remove and replace as occasion may require.

(2) When any person is made a ward of court under subsection (1) he shall not be removed from Sri Lanka without the leave of court which may be granted subject to such terms and conditions as the court may by order impose including orders for security. Any person knowingly removing or assisting in such removal without leave of court shall be liable to be punished as for a contempt of court.

(3) The jurisdiction and powers of District Courts under this section as regards the charge of the property of persons of unsound mind and mentally deficient persons shall extend to the charge of the property in Sri Lanka of persons of unsound mind and mentally deficient persons who are not resident in Sri Lanka and may be exercised by any District Court within whose territorial limits any such property is situate.

(4) A "mentally deficient person" means a person mentally ill or feeble and incapable of managing his own affairs though not adjudicated a person of unsound mind in accordance with the law for the time being in force.

(2) to inquire into and determine upon the validity of any document or documents adduced before it as and for the last will and testament of any person who may have died

- leaving property in Sri Lanka, and to record the same, and to grant probate thereof;

(3) to appoint administrators for the administration or execution of the trusts of any such last will or testament as aforesaid in cases where the executors or trustees thereby appointed shall not appear and take out probate thereof, or having appeared and taken out such probate, shall have resigned their office or shall by death or otherwise become incapable to carry any such trust fully into execution; and

(4) to take proper securities from all executors (whenever it shall seem to the court expedient to require the same) and all administrators of the last wills and testaments of any deceased persons or of the estates and effects of any persons who may have died intestate, and from the attorneys of any executors who may apply for administration of the last wills and testaments of any deceased persons for the faithful performance of such trusts, and for the proper accounting in such court for what may come into their hands or be by them expended in the execution thereof and to call them to account; and when it shall seem to such court expedient, to cause all accounts rendered by them to be duly and carefully audited and examined and to charge them with any balance which may from time to time remain in their hands, applicable for the performance of such trusts and to enforce the payment thereof, and to take order for the secure investment of any such balances and the apportionment and payment thereof among and to such persons as shall be found entitled to the same, and such administrators from time to time to remove and replace as occasion may require.

Testamentary jurisdiction.

21. Every District Court shall have full power and authority subject to and in accordance with the law in force for the time being—

(1) to appoint according to the law in force for the time being administrators of the estates and effects of any persons dying either intestate, or who may not by any last will or testament have appointed any executor or trustee for the administration of such estates or effects, whether such estates or effects may be within such district or any other district or districts within Sri Lanka;

Transfer of
testamentary
cases.

22. Where any court shall, under the provisions of this Chapter, have issued probate of the will or letters of administration of the estate or effects of any person who shall have left property within the jurisdiction of any other court, or where any application for such probate or letters of administration shall have been made to any court, it shall be lawful for the Court of Appeal, on application showing good grounds therefor, to make order for the transfer of any cause, suit, action, or matter in regard to any such probate or administration so pending in any such court, to such other court; and the court to which the same shall be so transferred shall take cognizance thereof, and have power and jurisdiction in all respects with regard thereto as effectually to all intents and purposes as the court which originally had cognizance of the same.

Appeals.

[§2. 37 of
1979.]

23. Any party who shall be dissatisfied with any judgment, decree, or order pronounced by a District Court may (excepting where such right is expressly disallowed) appeal to the Court of Appeal against any such judgment, decree, or order from any error in law or in fact committed by such court, but no such appeal shall have the effect of staying the execution of such judgment, decree, or order unless the District Judge shall see fit to make an order to that effect, in which case the party appellant shall enter into a bond, with or without sureties as the District Judge shall consider necessary, to appear when required and abide the judgment of the Court of Appeal upon the appeal.

children, dependents' claims, guardianship and curatorship matters, claims in respect of 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 law:

Provided that anything in the preceding provisions of this subsection shall not affect the provisions of the Kandyan Marriage and Divorce Act and the provisions of the Muslim Marriage and Divorce Act.

(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 statutes referred to in the Third Schedule† hereto, it shall be deemed to be a reference to a Family Court:

Provided that this subsection shall have no application to any offences alleged to have been committed in violation of the provisions of any such statute.

(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; 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.

CHAPTER V

FAMILY COURTS *

Jurisdiction of
Family Courts.

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 maintenance and alimony, disputes between spouses, parents and children as to matrimonial property, custody of minor

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 the 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. Care of minors, and charge of their property.

* Under a subsequent amendment effected to the Judicature Act by Act No. 71 of 1981, every District Court shall be deemed to be a Family Court when exercising jurisdiction vested in a Family Court under the Judicature Act or any other written law.

† Necessary alterations in the statutes referred to in the Third Schedule have been made in this Edition.

Family
Counsellor.

26. (1) There shall be attached to each Family Court an officer who shall be called the "Family Counsellor" whose duty it shall be, before any dispute in respect of which a Family Court has jurisdiction comes up for inquiry or trial before the Judge of the Family Court, to make every effort to induce the parties to settle such dispute.

(2) 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 Judge of the Family Court who shall enter such terms of settlement as a decree of such Court.

(3) Where a Family Counsellor is not able to settle any dispute referred to in subsection (1), he shall refer such dispute to the Judge of the Family Court for determination after inquiry or trial.

(4) No Judge of a Family Court shall hold any inquiry or trial in respect of any dispute until such dispute is referred to him by the Family Counsellor under subsection (3).

[§3, 37 of 1979.] (5) Until a Family Counsellor is attached to a Family Court under subsection (1), the preceding provisions of this section shall have no application to any proceedings instituted in such court :

Provided that where no Family Counsellor has been attached to such Family Court at the time the inquiry or trial has commenced, then, notwithstanding the attachment of the Family Counsellor, the inquiry or trial may continue and be proceeded with to final judgment without reference to the Family Counsellor.

Appeals.

27. Any party who shall be dissatisfied with any 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, appeal therefrom to the Court of Appeal for any error in law or in fact.

Transfer of
cases from one
Family Court
to another and
consolidation.

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.

(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 to 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 interests 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.

29. (1) All proceedings in a Family Procedure in Court shall be instituted and conducted as Family Courts. expeditiously as possible in accordance with [§4, 37 of 1979.] such regulations as may be prescribed :

Provided that until such regulations have been so prescribed, the court shall, as far as practicable, follow the provisions relating to summary procedure in the Civil Procedure Code.

(2) The provisions of the Adoption of Children Ordinance and the Maintenance Ordinance governing the institution and conducting of proceedings under the said Ordinances shall be deemed to apply to such proceedings that may be instituted in the Family Courts.

(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 expeditious disposal of the same.

CHAPTER VI

MAGISTRATES' COURTS

Powers and jurisdiction.

30. Every Magistrate's Court shall have and exercise all powers and authorities and perform all duties which Magistrates' Courts are empowered and required to have, exercise and perform by virtue of the provisions of the Penal Code or of the law relating to criminal procedure or of any other enactment for the time being in force in any way empowering or requiring them in that behalf.

For the purposes of this section "law relating to criminal procedure" shall mean the Code of Criminal Procedure Act.

Right of appeal.

31. Any party aggrieved by any conviction, sentence or order entered or imposed by a Magistrate's Court may subject to the provisions of any law appeal therefrom to the Court of Appeal in accordance with any law, regulation or rule governing the procedure and manner for so appealing.

(2) The Primary Court 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.

(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).

34. (1) Where any civil proceeding or matter is instituted in a Primary Court, it shall be the duty of the Judge of that 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 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 court and be enforceable, as a decree thereof.

Duty to conciliate disputes.

CHAPTER VII

PRIMARY COURTS

Civil jurisdiction.

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

(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.

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.

(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.

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, appeal therefrom to the Court of Appeal for any error in law or in fact:

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

* See Part V of the Primary Courts' Procedure Act.

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

(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.

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* 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.

CHAPTER VIII

GENERAL PROVISIONS

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 or the Magistrates' Courts.

Courts of First
Instance to
execute
judgments, &c.,
in appeal.

38. Every Court of First Instance shall in all cases of appeal from such court to the Court of Appeal and to the Supreme Court conform to and execute all such judgments, orders and decrees of the Court of Appeal and the Supreme Court, as the case may be, as shall be made and pronounced in such appeal in like manner as though such judgment, order or decree was made and pronounced by such Court of First Instance.

Objection to
jurisdiction.

39. Whenever any defendant or accused party shall have pleaded in any action, proceeding or matter brought in any Court of First Instance neither party shall afterwards be entitled to object to the jurisdiction of such court, but such court shall be taken and held to have jurisdiction over such action, proceeding or matter:

Provided that where it shall appear in the course of the proceedings that the action, proceeding or matter was brought in a court having no jurisdiction intentionally and with previous knowledge of the want of jurisdiction of such court, the Judge shall be entitled at his discretion to refuse to proceed further with the same, and to declare the proceedings null and void.

40. (1) The Supreme Court may in accordance with rules for the time being in force admit and enrol as attorneys-at-law persons of good repute and of competent knowledge and ability.

Attorneys-
at-law.

(2) When any order has been duly made for the admission of any person as an attorney-at-law of the Supreme Court the Registrar of the Supreme Court shall and he is hereby required at the time of such admission to issue and deliver to such person so admitted a writing under the hand of such Registrar and the seal of the said court certifying the admission of such person as an attorney-at-law as aforesaid and the stamp duty specified in item 1 of Part V of Schedule A to the Stamp Ordinance shall be payable on such admission.

(3) The provisions of subsection (2) relating to stamp duty shall be deemed to have come into force on January 1, 1974.

41. (1) Every attorney-at-law shall be entitled to assist and advise clients and to appear, plead or act in every court or other institution established by law for the administration of justice and every person who is a party to or has or claims to have the right to be heard in any proceeding in any such court or other such institution shall be entitled to be represented by an attorney-at-law.

Right of
representation.

(2) Every person who is a party to any proceeding before any person or tribunal exercising quasi-judicial powers and every person who has or claims to have the right to be heard before any such person or tribunal shall unless otherwise expressly provided by law be entitled to be represented by an attorney-at-law.

* Section 50 of the Primary Courts' Procedure Act prescribes the procedure for trials in regular actions in the District Court to be followed by Primary Courts.

Refusal to
admit,
suspension and
removal of,
attorney-at-law.

42. (1) The Supreme Court shall have the power to refuse to admit and enrol any person applying to be so admitted and enrolled as an attorney-at-law and shall if required to do so by the applicant, assign and declare in open court the reasons for such refusal.

(2) Every person admitted and enrolled as an attorney-at-law who shall be guilty of any deceit, malpractice, crime or offence may be suspended from practice or removed from office by any three Judges of the Supreme Court sitting together.

(3) Before any such attorney-at-law shall be suspended or removed as hereinbefore provided a notice containing a copy of the charge or charges against him and calling upon him to show cause within a reasonable time why he should not be suspended or removed, as the case may be, shall be personally served on him. If, however, personal service cannot be effected, the Supreme Court shall order such substituted service as it may deem fit:

Provided however that every such attorney-at-law may be suspended by any Judge of the Supreme Court on such cause as aforesaid pending the final decision of the Supreme Court.

(4) It shall be the duty of the presiding officer of any court or other tribunal administering justice before which any attorney-at-law is found guilty of any crime or offence which may be prescribed to forthwith report such fact to the Supreme Court which may if it thinks fit suspend such attorney-at-law from practice pending the final determination of any appeal from such finding of guilty or a proceeding under subsection (3) whichever is later.

Inquiry by
disciplinary
committee into
alleged
misconduct of
attorney-at-law.

43. (1) Where the Chief Justice or any Judge of the Supreme Court considers it expedient or necessary for the purpose of enabling the Court to determine whether or not proceedings should be taken for the suspension from practice or the removal from office of any attorney-at-law, the Chief Justice or any other Judge of the Supreme Court may by order direct that a preliminary inquiry into any alleged misconduct of such attorney-at-law shall be held by a disciplinary

committee of the Bar Association of Sri Lanka constituted in accordance with the succeeding provisions of this Act.

(2) Nothing in subsection (1) shall be construed as to require the Supreme Court or any Judge thereof to direct that a preliminary inquiry be held as therein provided, before proceedings are taken under section 42 (3) in relation to any attorney-at-law.

(3) No member of such disciplinary committee, nor the secretary thereof shall, in respect of any act or thing done or omitted to be done by him in his capacity as such member or secretary, be liable to any action, prosecution or other proceeding in any civil or criminal court.

44. (1) The Chief Justice shall appoint a panel of not less than fifteen members of the Bar Association of Sri Lanka for the purposes of constituting disciplinary committees for holding inquiries required by the preceding section. Disciplinary Committees.

(2) Every person appointed to the panel shall be a member thereof for a period of three years from the date of his appointment, unless he is earlier removed therefrom by the Chief Justice acting in his discretion, or earlier vacates the office by resignation or by ceasing to be a member of the Bar Association of Sri Lanka. Every member of the panel who vacates office as such by effluxion of time shall be eligible for renomination and reappointment.

(3) Any casual vacancy in the panel may be filled by the Chief Justice.

(4) Where any inquiry is required under section 43 to be held by a disciplinary committee, the Chief Justice shall appoint three persons from amongst the members of the panel to constitute the disciplinary committee for the purpose of the inquiry, and shall appoint one of them to be the chairman of the committee.

45. (1) The President of the Republic of Sri Lanka, the Speaker of the Parliament, the Ministers of State and the officers (whether holding office permanently or temporarily) enumerated in the Fifth Schedule hereto shall be *ex officio* Justices of the Peace for the

Justices of the
Peace and
Unofficial
Magistrates.

Republic of Sri Lanka or for such portion thereof respectively as is indicated in the said Schedule.

(2) The Minister may, from time to time by notice published in the Gazette, appoint such persons as shall be named in such notice to be Justices of the Peace for the Republic of Sri Lanka, or for such zones, districts or divisions as to the Minister shall seem expedient.

(3) The Minister may, from time to time by notice published in the Gazette, appoint any Justice of the Peace who is an attorney-at-law to be an Unofficial Magistrate for any judicial division or divisions, and any Justice of the Peace so appointed shall have all the powers and authority vested by this Act in Magistrates' Courts save and except the power and authority to hear, try and determine any criminal case.

(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 or Magistrate, and every such Judge is empowered and required, upon application on 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.

(5) All persons who on the day preceding the date on which the provisions of this section are brought into operation were Justices of the Peace or Unofficial Magistrates respectively shall continue to hold such office and be deemed to have been appointed for all purposes under this Act.

Transfer of cases.

46. (1) Whenever it appears to the Court of Appeal—

(a) that a fair and impartial trial cannot be had in any particular court or place ; or

(b) that some questions of law of unusual difficulties are likely to arise ; or

(c) that a view of the place in or near which any offence is alleged to have been committed may be required for the satisfactory inquiry into or trial of the same ; or

(d) that it is so expedient on any other ground,

the court may order upon such terms as to the payment of costs or otherwise as the said court thinks fit, for the transfer of any action, prosecution, proceeding or matter pending before any court to any other court and accordingly in every such case, the court to which any such action, prosecution, proceeding or matter is so transferred shall, notwithstanding anything to the contrary in this or any other law, take cognizance of and have the power and jurisdiction to hear, try and determine such action, prosecution, proceeding or matter, as fully and effectually to all intents and purposes as if such court had an original power and jurisdiction.

(2) Every application for transfer of any action, prosecution, proceeding or matter under this section shall be supported by an affidavit setting out the grounds on which it is based.

(3) The Court of Appeal, in making an order for transfer under this section may, if it thinks fit, direct that the court to which such action, prosecution, proceeding or matter is transferred shall call all or any of the witnesses who have been examined before the court from which the transfer is made, and take their evidence afresh.

47. (1) Whenever it appears to the Attorney-General that it is expedient that any inquiry into or trial of any criminal offence shall be transferred from any court or place, to any other court or place, it shall be lawful for the Attorney-General in his discretion by his fiat in writing to designate such last-mentioned court or place, and such inquiry or trial shall be held accordingly on the authority of such fiat which shall be filed of record with the proceedings in such inquiry or trial so transferred as aforesaid.

Power of Attorney-General to decide court or place at which inquiry or trial should be held.

(2) Any person aggrieved by a transfer made under such fiat of the Attorney-General may apply to the Court of Appeal, by motion supported by affidavit, setting out the grounds for such application for retransfer or for transfer to any other

court or place of such inquiry or trial, and the Court of Appeal may after notice to the Attorney-General, who shall, if he thinks fit, be heard to show cause against such motion, if it considers that good cause has been shown why the application shall be granted, make order accordingly.

(3) Every person making an application for a transfer under this Chapter shall give to the Attorney-General and also to the accused or complainant as the case may be, notice in writing of such application together with a copy of the grounds on which it is made. No order shall be made on the merits of the application unless and until at least forty-eight hours have elapsed between the receipt of such notice and the hearing of such application. Every accused person making an application for a transfer under the preceding section may be required by the Court of Appeal, in its discretion, to execute a bond with or without surety conditioned that he will, if convicted, pay the cost of the prosecution.

Provision for continuing any case begun before a Judge becoming disabled.

48. In the case of death, sickness, resignation, removal from office, absence from Sri Lanka, or other disability of any Judge before whom any action, prosecution, proceeding or matter, whether on any inquiry preliminary to committal for trial or otherwise, has been instituted or is pending, such action, prosecution, proceeding or matter may be continued before the successor of such Judge who shall have power to act on the evidence already recorded by his predecessor, or partly recorded by his predecessor and partly recorded by him or, if he thinks fit, to re-summon the witness and commence the proceedings afresh:

Provided that in any such case, except on an inquiry preliminary to committal for trial, either party may demand that the witnesses be re-summoned and re-heard, in which case the trial shall commence afresh.

Provisions for hearing of cases where Judge is a party.

49. (1) Except with the consent of both parties thereto, no Judge shall be competent, and in no case shall any Judge be compellable, to exercise jurisdiction in any action, prosecution, proceeding or matter in which he is a party or personally interested.

(2) No Judge shall hear an appeal from or review any judgment, sentence or order passed by himself.

(3) Where any Judge who is a party or personally interested, is a Judge of the Supreme Court or the Court of Appeal, the action, prosecution, proceeding or matter to or in which he is a party or is interested, or in which an appeal from his judgment shall be preferred, shall be heard or determined by some other Judge or Judges of the said court:

Provided that in every other case some other Judge of the High Court, the District Court, Family Court, Magistrate's Court and 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.

50. The alleged commission of a crime or offence, or the conviction or acquittal of any person of a crime or offence, shall not be a bar to a civil action for damages against such person at the instance of any person who may have suffered any injury, or who may allege that he has suffered an injury, loss or damage from or by reason of the commission of any such crime or offence.

Conviction or acquittal no bar to any civil action.

51. Where any crime or offence is declared by any written law to be punishable by such punishment as the court before which a conviction is obtained may impose or by such fine or imprisonment as the aforesaid court may impose, such crime or offence may be tried within the zone, district or division, as the case may be, in which the crime or offence was committed, in any court having criminal jurisdiction which the Attorney-General may elect for the prosecution of such crime or offence, jurisdiction for such purpose being hereby given to such court. However, the accused person shall, in case of conviction, receive no larger amount of fine, or longer term of imprisonment than the court by which he is tried is empowered to impose in the exercise of its ordinary jurisdiction. Such right of electing the court may be exercised by the Attorney-General, even where the prescribed maximum punishment exceeds that which a Magistrate's Court or Primary Court is empowered to impose.

In what court offences declared punishable by fines or imprisonment generally may be tried.

52. (1) There shall be appointed to the High Court and to each of the District Courts, Family Courts, Magistrates' Courts and Primary Courts established under this Act, a Registrar, a Fiscal and such other

Registrar and other officers of Courts of First Instance.

officers as may be necessary for the administration and for the due execution of the powers and the performance of the duties of such courts including the service of process and the execution of decrees of court and other orders enforceable under any written law.

(2) Subject to the provisions of the Constitution the Registrar of the High Court shall act under the supervision, direction and control of the President of the Court of Appeal.

Ministerial acts
in absence of
officers.

53. During the absence from duty of any ministerial or other officer of any court who is authorized or required by law to sign any process of the court or certificate or other document or execute any instrument or perform any other specified duty or function, the Judge of the court shall have power to direct any other officer of the court to sign such process, certificate or document, execute such instrument or perform such duty or function, and every act done in that behalf by such officer in conformity with any such direction of the Judge shall be deemed to be valid and effectual for all purposes.

Injunctions.

54. (1) Where in any action instituted in a High Court, District Court, or a Family Court, it appears—

- (a) from the plaint that the plaintiff demands and is entitled to a judgment against the defendant, restraining the commission or continuance of an act or nuisance, the commission or continuance of which would produce injury to the plaintiff; or
- (b) that the defendant during the pendency of the action is doing or committing or procuring or suffering to be done or committed, or threatens or is about to do or procure or suffer to be done or committed, an act or nuisance in violation of the plaintiff's rights in respect of the subject-matter of the action and tending to render the judgment ineffectual, or
- (c) that the defendant during the pendency of the action threatens or is about to remove or dispose of his property with intent to defraud the plaintiff,

the Court may, on its appearing by the affidavit of the plaintiff or any other person that sufficient grounds exist therefor, grant an injunction restraining any such defendant from—

- (i) committing or continuing any such act or nuisance;
- (ii) doing or committing any such act or nuisance;
- (iii) removing or disposing of such property.

(2) For the purposes of this section, any defendant who shall have by his answer set up any claim in reconvention and shall thereupon demand an affirmative judgment against the plaintiff shall be deemed a plaintiff, and shall have the same right to an injunction as he would have in an action brought by him against the plaintiff for the cause of action stated in the claim in reconvention, and the plaintiff shall be deemed the defendant and the claim in reconvention the plaint.

(3) Such injunction may be granted to accompany the summons, or at any time after the commencement of the action and before final judgment, and with or without notice in the discretion of the court. Where the defendant has appeared, it shall be granted only upon notice or on an order to show cause. Where an application for an injunction is made upon notice or on an order to show cause, either before or after the appearance of the defendant, the court may grant an injunction restraining the defendant or any other person until the hearing and decision of the application.

55. (1) Every District Court, Family 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 courts respectively, and which are declared by any law for the time being in force to be punishable as contempts of court.

Contempt
proceedings.

(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—

- (a) by a District Court and Family Court—fine not exceeding two thousand five hundred rupees or imprisonment, either simple or rigorous, for a period not exceeding two years ;
- (b) by a Magistrate's Court—fine not exceeding one thousand five hundred rupees or imprisonment either simple or rigorous, for a period not exceeding eighteen months ;
- (c) by a Primary Court—fine not exceeding five hundred rupees or imprisonment, either simple or rigorous, for a period not exceeding three months.

Transitional provisions.

56. (1) All civil actions, proceedings or matters pending in the District Courts and Magistrates' Courts in respect of matters which by this Act are within the jurisdiction of a District Court, Family Court or Primary Court on the day preceding the date on which the provisions of this section are brought into operation*, shall stand removed to the appropriate District Court, Family Court or Primary Court, as the case may be, 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 District Courts and Magistrates' Courts delivered or made before the date on which the provisions of this section are brought into operation shall have the same force and effect as if they had been delivered or made by the appropriate District Court, Family Court or Primary Court, as the case may be :

Provided that any such civil action, proceeding or matter in which the adducing of evidence has commenced as at the day preceding the date on which the provisions of this section are brought into operation* in the District Court or Magistrate's Court, as the case may be, shall be heard and determined by the said District Court or Magistrate's Court.

(2) All criminal actions, proceedings or matters pending in any District Court on the day preceding the date on which the provisions of this section are brought into operation* shall stand removed to the High 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 District Court delivered or made before the date on which the provisions of this section are brought into operation* shall have the same force and effect as if they had been delivered or made by the High Court :

Provided that any such criminal action, proceeding or matter in which the adducing of evidence has commenced as at the day preceding the date on which the provisions of this section are brought into operation* in the District Court shall be heard and determined by the said District Court.

(3) All criminal actions, proceedings or matters pending in any Magistrate's Court which by the provisions of this Act are within the jurisdiction of a Primary Court, on the day preceding the date on which the provisions of this section are brought into operation* shall stand removed to the appropriate Primary Court and such Primary 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 Magistrate's Court aforesaid delivered or made before the date on which the provisions of this section are brought into operation* shall have the same force and effect as if they had been delivered or made by the appropriate Primary Court:

Provided that any criminal action, proceeding or matter in which the adducing of evidence has commenced as at the day preceding the date on which the provisions of this section are brought into operation* in the Magistrate's Court shall be heard and determined by the said Magistrate's Court.

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 purposes to be and shall exercise all

Where Judge of a Primary Court is not appointed.

* 1st July, 1979.

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, matters in which such Magistrate has commenced the recording of any evidence.

Operation of the territorial limits and the jurisdiction of court.

58. Where by virtue of the provisions of this Act, any area previously forming part of the jurisdiction of any District Court or Magistrate's Court is excluded therefrom, and any action, proceeding or matter in the court on the day preceding the date on which the provisions of this section are brought into operation* ceases to be within the jurisdiction of that court by reason only of the exclusion of that area, such action, proceeding or matter may, notwithstanding anything in this Act, be heard and determined or continued and completed by that court as if such area had not been excluded from the jurisdiction of that District Court or Magistrate's Court, as the case may be.

Court to make appropriate orders in certain matters.

59. If any matter or question of procedure shall arise before any court, in consequence of the coming into operation of the provisions of this Act, or in respect of any matter, or question of procedure not provided for by this Act, the court shall have the power to make such orders and give such directions as the court considers necessary to prevent injustice and as the justice of the case may require.

Nomination of courts for special categories of cases.

60. The Minister may by regulation with the concurrence of the Chief Justice nominate the High Court holden in any specified judicial zone or a court or courts anywhere in Sri Lanka to hear and determine such categories of civil or criminal proceedings or any other matters as shall be specified in such regulation and accordingly such court or courts shall notwithstanding anything to the contrary in this or any other written law in regard to the territorial limits of the jurisdiction of such courts have

jurisdiction to hear and determine all such proceedings or matters:

Provided that the nomination of any such court or courts shall not affect the jurisdiction of any other court to hear and determine any such proceedings or matters:

Provided further that until regulations are made under this section all regulations made under section 46 of the Administration of Justice Law, No. 44 of 1973, † and in force on the 2nd day of July, 1979, shall, *mutatis mutandis*, apply.

61. (1) The Minister may make Regulations. regulations for carrying out or giving effect to the principles and provisions of this Act and for matters required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made.

(2) Every regulation made by the Minister under subsection (1) shall be published in the Gazette and shall come into force on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation shall as soon as convenient after the publication in the Gazette be brought before Parliament for approval and any regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder.

(4) The date on which any regulation is deemed to be so rescinded shall be published in the Gazette.

63.‡ In this Act—

“the High Court of the Republic of Sri Lanka” shall mean the High Court existing at the date of enactment of this Act and deemed to have been created and established by Parliament in terms of Article 105 (2) read with Article 169 (6) of the Constitution;

“District Courts” and “Magistrates' Courts” shall mean the District Courts and Magistrates' Courts deemed to be created and established by Parliament in terms of Article 105 (2) of the Constitution.

Interpretation.

* 1st July, 1979.

† Repealed by section 62 of Act No. 2 of 1978 with effect from 2nd July, 1979.

‡ Section 62, repealing Chapter 1 of the Administration of Justice Law, No. 44 of 1973, and the Conciliation Board Act, No. 10 of 1958, with effect from 2nd July, 1979, omitted under the provisions of the Revision of the Legislative Enactments Act.

[Section 6 (2).]

FIRST SCHEDULE

OATH OR AFFIRMATION OF OFFICE

SECTION 6 (2) OF THE JUDICATURE ACT, 1978

I.....do solemnly affirm/swear that I will be faithful and bear true allegiance to the Republic of Sri Lanka and that I will well and truly serve the Republic of Sri Lanka and duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office as..... in accordance with the Constitution and with the law and that I will do all right to all manner of people after the laws and usages of the Republic of Sri Lanka, without fear or favour, affection or ill-will.

On this..... day of 19..... at

Before me,

Justice of the Peace.

[Section 11 (1)
(a).]

SECOND SCHEDULE

1. Offences punishable under sections 296, 297, 300 and 364 of the Penal Code.

2. Offences punishable under section 4 (2), and section 4 (2) read with section 6 (1) of the Offensive Weapons Act.

[§5, 37 of 1979.]

3. Abetment and conspiracy for the abetment or commission of the offences described in item 1 above and conspiracy for the commission of the offences described in item 2 above.

[Section 24 (2).]

THIRD SCHEDULE

Adoption of Children Ordinance.

Births and Deaths Registration Act.

Civil Procedure Code.

[§6, 37 of 1979.]

*Foreign Marriages Ordinance, No. 12 of 1903.
Jaffna Matrimonial Rights and Inheritance Ordinance.

Legitimacy Act.

†Maintenance Ordinance.

Marriage Registration Ordinance.

[§6, 37 of 1979.]

Married Women's Property Ordinance.

Matrimonial Rights and Inheritance Ordinance.

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 judgment 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 Ordinance or Act or Land Reform Law, 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 instrument.

(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 contribution.

(12) Any action for a declaratory decree including a decree for the declaration of title to land.

(13) Any action for 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 judgment as defined in the Civil Procedure Code or upon a judgment obtained in any court in Sri Lanka.

* See section 6 of the Revision of the Legislative Enactments Act and the Schedule to that Act.

† This item has since been omitted—See section 12 of Act No. 71 of 1981.

(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 collections received by the mortgagee, and any action for the profits on immovable property belonging to the plaintiff which have 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 Ordinance as amended from time to time.

(33) Any action relating to trade marks, patents or copyrights.

(34) Any action founded on nuisance.

(35) Any action for rent and ejectment and proceedings under the Rent Laws.

(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.

FIFTH SCHEDULE

[Section 45.]

JUSTICES OF THE PEACE FOR SRI LANKA

The Chief Justice

The Leader of the Opposition

Supreme Court Judges ; The President of the Court of Appeal

The Judges of the Court of Appeal

The Deputy Speaker

The Chief Government Whip

Deputy Ministers

The Deputy Chairman of Committees

Members of Parliament

The Attorney-General

The Secretary to the Cabinet of Ministers, The Secretary to the President, The Secretary to the Prime Minister, The Secretary-General of Parliament

The Secretaries to the various Ministries

Judges of the High Court

The Inspector-General of Police

The Solicitor-General

Additional Secretaries to the various Ministries

Legal Draftsman, Bribery Commissioner, Additional Solicitor-General, Additional Legal Draftsman

The Public Trustee

The Registrar-General

The Deputy Solicitors-General, Senior Assistant Secretaries to the various Ministries, The Deputy Secretary-General of Parliament

The Registrar of the Supreme Court and the Registrar of the Court of Appeal	The quazis functioning in areas of jurisdiction of District Courts for such districts.
Deputy Inspectors-General of Police	Members of the board of quazis residing in areas of jurisdiction of District Courts, for such districts in which they reside.
Senior State Counsel	
State Counsel and Assistant Secretaries to the various Ministries	The Additional Registrars of the High Court holden in any zone— within the respective zone.
Deputy Registrar of the Supreme Court and Deputy Registrar of the Court of Appeal	The Registrars of District Courts, Family Courts, Magistrates' Courts and Primary Courts, and Assistant Secretaries of Labour Tribunals, for the respective areas of jurisdiction of those courts or tribunals.
Superintendents of Police and Assistant Superintendents of Police other than Probationary Assistant Superintendents of Police	
The Registrar of the High Court	The Government Agents of the Administrative Districts, for their respective Administrative Districts
The Secretary to the Leader of the House	
The Secretary to the Leader of the Opposition	The Assistant Government Agents functioning in Administrative Districts, for the respective Administrative Districts in which they function.
The Secretary, Labour Tribunals	
JUSTICES OF THE PEACE FOR PORTIONS OF SRI LANKA	
The District Judges	
The Judge of each Family Court	For the respective areas within which they exercise their jurisdiction.
The Magistrate	
The Judge of each Primary Court	
The President of each Labour Tribunal	The Office Assistants to Government Agents of Administrative Districts, for the respective Administrative Districts of those Government Agents.
	The Divisional Assistant Government Agents, for their respective areas of jurisdiction.