

PARLIAMENT OF THE DEMOCRATIC

SOCIALIST REPUBLIC OF

SRI LANKA

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CIVIL PROCEDURE CODE (AMENDMENT)

ACT, NO. 11 OF 2010

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[Certified on 05th October, 2010]

Printed on the Order of Government

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Civil Procedure Code (Amendment) 1

Act, No. 11 of 2010

[Certified on 05th October, 2010]

L. D. —O. 52/2007.

ANACT TO AMEND THE CIVIL PROCEDURE CODE

BE it enacted by the Parliament of the Democratic Socialist

Republic of Sri Lanka as follows:—

1. This Act may be cited as the Civil Procedure Code Short title.

(Amendment) Act, No. 11 of 2010.

2. Section 338 of the principal enactment is hereby Amendment of

amended in subsection (3) thereof, by the substitution for section 338 of

the principal

paragraph (b) thereof, of the following paragraph:—

enactment.

‘“legal representative” means an executor or

administrator or in the case of an estate below the

value of rupees four million, the next of kin who

have adiated the inheritance:

Provided however, that in the event of any

dispute arising as to who is the legal representative

the provisions of section 397 shall, mutatis

mutandis, apply.’.

3. Section 394 of the principal enactment is hereby Amendment of

amended in subsection (2) thereof by the substitution for section 394 of

the definition for the expression “legal representative” of the principal

enactment.

the following definition:—

‘“legal representative” means an executor or

administrator or in the case of an estate below the

value of rupees four million, the next of kin who

have adiated the inheritance.’.

4. Section 524 of the principal enactment is hereby Amendment of

amended by the repeal of subsection (4) of that section and section 524 of

the principal

the substitution therefor, of the following subsection :—

enactment.

“(4) The petitioner shall tender with the petition

proof of payment of charges to cover the cost of

publication of the notice under section 529.”.

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Amendment of 5. Section 525 of the principal enactment is hereby

section 525 of

amended by the substitution for the words “five hundred

the principal

enactment. thousand rupees” of the words “four million rupees”.

Amendment of 6. Section 527 of the principal enactment is hereby

section 527 of amended by the substitution, for the words “five hundred

the principal

thousand rupees” of the words “four million rupees.”

enactment.

Amendment of 7. Section 528 of the principal enactment is hereby

section 528 of amended in subsection (3) of that section, by the addition

the principal

immediately after paragraph (b) thereof of the following

enactment.

paragraph :—

“(c) notices on the respondents who have not

consented to the application, requiring them to

file objections if any, to the application on or

before the date specified in the notice under

section 529. Such notice shall be sent by the

probate officer by registered post.”.

Amendment of 8. Section 529 of the principal enactment is hereby

section 529 of amended as follows:—

the principal

enactment.

(1) in subsection (2) of that section, by the substitution

for the words “incorporating the information

relating to—” of the words, “relating to—”;

(2) in subsection (3) of that section, by the substitution

for the words “to any person to whom the notice

relates” of the words “to any person specified in the

application made under section 524 or 528.

Amendment of 9. Section 530 of the principal enactment is hereby

section 530 of amended by the substitution for the words “named in such

the principal

notice” of the words “of the deceased”.

enactment.

Amendment of 10. Section 541 of the principal enactment is hereby

section 541 of amended in subsection (2) of that section by the substitution

the principal

enactment. for the words “the respondents to the original petition for

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probate or letters of administration or certificates of heirship”

of the words “the heirs of the deceased or other persons who

have objected to the application”.

Amendment of

11. Section 545 of the principal enactment is hereby

section 545 of

repealed and the following section substituted therefor:— the principal

enactment.

“No transfer 545. No person shall effect any transfer of

to be effected

any property movable or immovable, in Sri

in certain

cases. Lanka, belonging to or included in, the estate

or effects of any person dying testate or intestate

in or out of Sri Lanka within five years prior to

the effecting of the transfer, unless grant of

probate has been issued in the case of a person

dying testate, or letters of administration or

certificates of heirship have been issued in the

case of a person dying intestate and leaving an

estate amounting to, or exceeding four million

rupees in value.”.

12. Section 554 of the principal enactment is hereby Amendment of

section 554 of

amended as follows:—

the principal

enactment.

(1) in subsection (2) thereof by the substitution for the

words “which is over rupees five hundred thousand”

of the words “which is over rupees four million,”;

(2) in subsection (3) thereof for the substitution for the

words “which is less than rupees five hundred

thousand” of the words “which is less than rupees

four million.”.

13. The First Schedule to the principal enactment is Amendment to

First Schedule to

hereby amended as follows:—

the principal

enactment.

(1) by the substitution for Form 82 thereof of the

following Form:—

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“No. 82 (Section 517/524)

FORM OF APPLICATION FOR PROBATE OR FOR

ADMINISTRATION WITH THE WILL ANNEXED

In the matter of the will of A. B. deceased

C. D. of Petitioner

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

20...........

2. The said A. B. duly executed his last will dated the.........day of

...............20......... (now deposited in this court or and the said will is

appended hereto or as the case is.........see section 524).

3. To the best of your petitioner’s knowledge the heirs of the

said A. B., deceased, are :

4. Full and true particulars of the property left by the deceased, so

far as your petitioner has been able to ascertain the same, are contained

in the Schedule hereto annexed.

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

is)

Your petitioner therefore humbly prays for an order declaring the

said will proved, and that he may be declared executor of the said

will, and that probate thereof may be issued to him accordingly (or,

where the case is so, for a grant of administration with copy of the will

annexed, &c.). (If a limited grant is asked for, set out to that effect.)

(Formal conclusion).

SCHEDULE

(Support paragraph 2 and 5 by affidavit or oral evidence. If the

testator died out of Sri Lanka, state that the applicant has obtained an

Order appointing the court to have sole testamentary jurisdiction.)”.

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(2) by the substitution, for Form 83 thereof, of the

following Form :—

“No 83 (Section 517)

FORM OF APPLICATION FOR ADMINISTRATION WHERE

THERE IS NO WILL OR FOR CERTIFICATE OF HEIRSHIP

(Formal parts proceed as in last form)

In the matter relating to the will of

A. B. deceased

C. D. of .......... Petitioner

V

(For respondents name intestate heirs of the deceased to the best of

the petitioner’s knowledge)

1. The said. A. B., late of...................died on the................ day

of............ 20.........

2. The said A. B. did not execute a last will/no last will of the said

A. B. can be found.

3. To the best of the petitioner’s knowledge the heirs of the said

A. B. deceased, are:

4. Full and true particulars of the property left by the deceased, so

far as your petitioner has been able to ascertain the same, are contained

in the schedule hereto annexed.

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

Your petitioner therefore humbly prays for an order declaring

that he is entitled as such (creditor, or as the case is) to administer the

estate of the said intestate and directing that letters of administration

of the said estate or certificates of heirship thereto be granted to him

accordingly. (If a limited grant is asked for, set out to that effect).

(Formal conclusion).

SCHEDULE

(Support paragraphs 2 and 5 by affidavit or oral evidence and if

the deceased died out of Sri Lanka, state that the applicant has obtained

an Order appointing the Court to have sole jurisdiction.)”; and

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

following Form:—

“No. 84 (Section 529 (2))

FORM OF NOTICE TO BE PUBLISHED BY THE PROBATE

OFFICER

Notice under section.......................................................of the Civil

Procedure Code.

It is hereby notified that the following applications have been

made for the proof of will/probate/grant of letters of administration/

issue of certificates of heirship, in respect of the estates of the deceased

persons described in the Schedule hereto.

Any person having objections to the making of an Order declaring

a will proved or the grant of probate or letters of administration with

or without a will annexed or the issue of certificates of heirship to the

persons named in the petitions, shall make such objections in writing

supported by affidavit and filed on or before the dates fixed by the

respective District Courts specified below:

SCHEDULE

DISTRICT COURT OF ......................

Last date for filling of objections:................day of...........20........

SCHEDULE

Column I Column II Column III Column IV

District Court Name and Whether Name and

Registration Address Deceased Address

No. of Deceased left will of Applicant

Date:..................... Signed Probate Officer

District Court of.........................”.

Sinhala text to 14. In the event of any inconsistency between the

prevail in case Sinhala and Tamil texts of this Act, the Sinhala text shall

of prevail.

inconsistency.

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