



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

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

[Certified on 05th October, 2010]

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Civil Procedure Code (Amendment)
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L. D. —O. 52/2007.

AN ACT TO AMEND THE CIVIL PROCEDURE CODE

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

1. This Act may be cited as the Civil Procedure Code (Amendment) Act, No. 11 of 2010. Short title.
2. Section 338 of the principal enactment is hereby amended in subsection (3) thereof, by the substitution for paragraph (b) thereof, of the following paragraph :— Amendment of section 338 of the principal 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 amended in subsection (2) thereof by the substitution for the definition for the expression “legal representative” of the following definition:— Amendment of section 394 of the principal 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.’.
4. Section 524 of the principal enactment is hereby amended by the repeal of subsection (4) of that section and the substitution therefor, of the following subsection :— Amendment of section 524 of the principal 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 section 525 of the principal enactment.

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

Amendment of section 527 of the principal enactment.

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

Amendment of section 528 of the principal enactment.

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

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

Amendment of section 529 of the principal enactment.

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

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

Amendment of section 530 of the principal enactment.

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

Amendment of section 541 of the principal enactment.

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

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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.)”.

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

Date:.....

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

Sinhala text to prevail in case of inconsistency.

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

Annual subscription of English Bills and Acts of the Parliament Rs. 885 (Local), Rs. 1,180 (Foreign), Payable to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, DEPARTMENT OF GOVERNMENT INFORMATION, No. 163, KIRULAPONA MAWATHA, POLHENGODA, COLOMBO 05 before 15th December each year in respect of the year following.