

## JUDICATURE

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.

Act Nos,

[2 of 1978](#)

[37 of 1979](#)

[71 of 1981](#) [ 18<sup>th</sup> November , 1981 ]

[35 of 1983](#) [ 4<sup>th</sup> October , 1983 ]

[36 of 1983](#) [ 4<sup>th</sup> October , 1983 ]

[50 of 1985](#) [ 27<sup>th</sup> December , 1985 ]

[16 of 1989](#) [ 8<sup>th</sup> November , 1989 ]

[29 of 1991](#) [ 9<sup>th</sup> August , 1991 ]

[30 of 1991](#) [ 9<sup>th</sup> August , 1991 ]

[27 of 1998](#) [ 4<sup>th</sup> June , 1998 ]

[27 of 1999](#) [ 30<sup>th</sup> August , 1999 ]

Gazette Nos,

[1380-17-2005](#)

[678-14-1991](#)

[2<sup>nd</sup> July , 1979 ]

Short title. **1.** This Act may be cited as the Judicature Act.

### 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-

[\[ 2,16 of 1989 \]](#)

- (a) the High Court of the Republic of Sri Lanka;
- (b) the District Courts ;
- (c) the Small Claims Courts;
- (d) the Magistrates' 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. (\*1st July.1979)

## 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

[\[2.71 of 1981\]](#)

[\[2.35 of 1983\]](#)

[\[3.16 of 1989\]](#)

(a) not less than ten and not more than forty Judges, each of whom shall be known as a " Judge of the High Court" ;

(b) such Commissioners of the High Court as are appointed under Article 111A of the Constitution.'

District Courts, Small Claims Courts and Magistrates' Courts.

[\[3.71 of 1981\]](#)

[\[4.16 of 1989\]](#)

**5.**

(1) There shall be in such judicial district of Sri Lanka a " District Court" and in every judicial division there shall be a "Small Claims Court" and " Magistrates' Court" and each such court shall be holden by and before one person to be called the " District Judge ", " Judge of the Small Claims Court" and "Magistrate" respectively.

(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.

Judicial day. **5A.**

[\[5.16 of 1989\]](#)

(1) For the purpose of sittings for conducting trials and inquiries in every Court of First Instance a working calendar day shall be divided into two judicial days, each such judicial day beginning not later than 9.45 a.m. and 1.15 p.m. respectively.

(2) Trials and inquiries shall be fixed for every web. Judicial day.

(3) Every such judicial day shall, for the purposes of subsections (1) and (2) consist of a sitting in open court of a minimum duration of two and a half hours.

(4) Where any judge of any Court of First Instance is unable to comply with the provisions of this section he shall record the reasons for such inability and shall forthwith forward a copy of such reasons to the Judicial Service Commission.

Appointment of the Master. **5B.**

[\[5.16 of 1989\]](#)

(1) There shall be appointed to every such court as may be specified by the Minister by Order published in the Gazette, in consultation with the Chief Justice, an officer to be called the Master.

(2) The Master shall sit separately and exercise ail the powers or jurisdiction vested in him by subsection (3).

(3) The Master shall attend to and deal with all pre trial and postrial matter as arise in the course of a civil proceeding

instituted in the court to which he is appointed, including the framing of issues and the recording of admissions :

Provided that it shall be competent for the trial judge to record such admissions and frame such issues, whether by way of amendment of existing issues or otherwise, as may be considered to be appropriate during the conduct of the trial before; him.

(4) The Master may, with the concurrence of the judge of the court, submit for determination by such judge any matter which, may otherwise have been properly dealt with by him.

(5) The judge of any court may refer to the Master any matter of a procedural nature arising in the course of an action instituted in that court after the stage referred to in subsection (3).

(6) The Master shall have the power to do all such acts connected with or incidental or ancillary to, the exercise of the powers and jurisdiction vested in him by subsection (3), including the maintenance of the Journals of the Court.

Appointment of **5C.**  
the recorder.

[\[5.16 of 1989\]](#)

(1) There shall be appointed to every court as may be specified by the Minister by Order published in the Gazette, in consultation with the Chief Justice, an officer to Be called the Recorder.

(2) The Recorder shall sit separately and exercise all the powers or jurisdiction vested in him by subsection (3).

(3) The Recorder shall attend to and deal with all pre-trial and post-trial matters not including sentencing as arise in the course of a criminal proceeding instituted in the Court to which he is appointed, including the recording of admissions and confessions : Nothing in this section shall prejudice the powers of the trial judge to record such admissions as may be considered to be appropriate during the conduct of the trial before him.

(4) The provisions of subsections (4),(5) and (6) of section 5B shall, mutatis mutandis, apply to and in relation to, the powers and functions of a Recorder appointed under subsection (1).

Appointment **6.**  
retirement of  
Judges.

[\[4.71 of 1981\]](#)

[\[3.35 of 1983\]](#)

[\[6.16 of 1989\]](#)

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

(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 (other than a Commissioner of the High Court appointed under Article 111A of the Constitution) 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 **8.**  
additional  
Judges, c.  
[\[5.71 of 1981\]](#)  
[\[7.16 of 1989\]](#)

(1) The Judicial Service Commission may appoint as many Additional District Judges, Judges of the Small Claims Court and Magistrate's Court respectively in as the occasion may require.

(2) Every Additional District Judge, Judge of the Small Claims Court or Magistrate appointed to any such Court, shall sit separately and exercise all the powers and the jurisdiction vested in the District Court, the Small Claims Court or the Magistrate's Court as the case may be.

(3) Every Magistrate appointed to a judicial division shall have concurrent jurisdiction with the Magistrate appointed for every other judicial division, for the purposes of exercising jurisdiction under section 9(b) (iii) of the Code of Criminal Procedure Act, No, 15 of 1979.

### CHAPTER III

#### THE HIGH COURT OF THE REPUBLIC OF SRI LANKA

Criminal **9.**  
jurisdiction.  
[\[6.71 of 1981\]](#)

(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

(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 Chief Justice by a direction in writing under his hand :

Provided that the Chief Justice may 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.

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

Trial **11.**

by

Jury.

[\[ 8.16 of 1989\]](#)

(1) Subject to the provisions of sub-section (2) all trials in the High Court shall be before a Judge of the High Court sitting alone without a Jury.

(2) Trial in the High Court shall be by Jury before a Judge of the High Court where at least one of the charges is for an offence referred to in the Second Schedule hereto and the accused elects to be tried by a Jury.

(3) The election by the accused, to be tried by a Jury, shall be made at any time before the commencement of the trial.

Trials **12.**

at Bar.

(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 **13.**

jurisdiction.

[\[ 9.16 of 1989\]](#)

(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. The rules in force immediately prior to the coming into operation of this Act, shall continue to be in force until new rules are made, and any acts done in pursuance of these rules, after the coming into operation of this Act shall be deemed to have been, and to be, validly done.

(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.

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

Right of appeal **14.** Any person who stands convicted of any offence by the High Court in criminal cases. may appeal therefrom to the Court of Appeal-

(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.

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, [\[7.71 of 1981\]](#) [\[4.35 of 1983\]](#) **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 Chief Justice 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. Every Commissioner of the High Court appointed under Article 111A of the Constitution shall exercise such jurisdiction of the High Court within the judicial zone specified in his warrant of appointment.

Contempt of High Court. **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.

#### CHAPTER IV DISTRICT COURTS

Jurisdiction of District Courts. **19.** [\[10.16 of 1989\]](#)

(1) Every District Court shall be a court of record and shall within its district have unlimited original jurisdiction in all civil

revenue, trust, matrimonial, insolvency and testamentary matters, save and except such of the aforesaid matters as are by or under this Act or by virtue of the provisions of any other enactment exclusively assigned by way of original jurisdiction to any other court of vested in any other authority and In the exercise of such jurisdiction to impose fines, penalties and forfeitures and shall in fake manner also have jurisdiction over the persons and estates of persons of unsound mind, minors and wards, over the estates of constuisque trust and over guardians and trustees and in any other matter in which jurisdiction is given to District Courts by law.

Civil jurisdiction. [\[11.16 of 1989\]](#) **19A.** Every District Court shall have cognizance of and full power to hear and determine all pleas, suits and actions in which a party defendant shall be resident within the district in which any such suit or action shall be brought, or in which the cause of action shall have arisen within such district or where the land in respect of which the action is brought lies, or is situate wholly or partly within such district, or the contract sought to be enforced was made within such district.

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

(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 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.

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;

(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 interstate, 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.

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.

Appeal. **23.**

[2, 37 of  
1979]

[\[12.16 of  
1989\]](#)

(1) Any person who is dissatisfied with, any judgment pronounced by a District Court in any civil action, proceeding or matter to which he is a party may prefer an appeal to the Court of Appeal against such judgment for any error in fact or in law.

(2) Any person who is dissatisfied with any order made by a District Court in the course of any civil action, proceeding or matter to which he is or seeks to be a party, may prefer an appeal to the Court of Appeal against such order for the correction of any error in fact or in law, with the leave of the Court of Appeal first had and obtained.

## CHAPTER V

### SMALL CLAIMS COURTS [§ 13,16 of 1989]

Jurisdiction of **24.**  
Small Claims

Courts.

[\[8.71 of 1981\]](#)

(1) Every Small Claims Court shall be a court of record and shall have exclusive original jurisdiction and shall have cognizance of and full power to hear and determine all actions in which the debt, damage, or demand does not exceed such sum as may be specified by the Minister by an Order published in the Gazette and in which the party or parties defendant is or are resident within the jurisdiction of such court, or in which the cause of action has arisen within such jurisdiction and all proceedings under Chapter LXVIA of the Civil Procedure Code where the land or any part thereof is situate within the jurisdiction of such court, and all hypothecary action in which the amount claimed does not exceed such sum as may be specified in such order, and the land hypothecated, or any part thereof is situated within the jurisdiction of such court, and also all actions in which the title to, interest in, or right to the possession of any land is in dispute, and all actions for the partition or sale of land:

Provided that the value of the land or the particular share, right, or interest in dispute or to be partitioned or sold does not exceed such, sum as may be specified in such Order and the same or any part thereof is situate within, the jurisdiction of such court, and shall exercise any other jurisdiction as may be vested in it by any other law:

Provided always that such court shall not have cognizance of any action for criminal conversation, or for seduction, or for breach of promise of marriage, or for separation a menses thorn, or for divorce, a vineulomatrimonii, or for declaration of nullity of marriage.

(2) An Order made under subsection (1) shall not have effect until it is approved by Parliament and notification of such approval, is published in the Gazette.

**Costs 25.** It shall be lawful for the judge of every such court, in pronouncing his judgment or order in any case, to make such order respecting the payment of costs and expenses as to him shall appear just and reasonable.

**Appeal 26.** Any person who is dissatisfied with any final judgment of the Small Claims [19.71 of 1981](#) Court in any action, proceeding or matter or an order having the effect of a final judgment of such court may, (except where such right is expressly disallowed) appeal to the High Court established by Article 154P of the Constitution for the province in which such Small Claims Court is situated, against any such judgment or order, with, the leave of such Small Claims Court or where such leave is refused, with the leave of such High Court. The High Court may in the exercise of its appellate jurisdiction in respect of such judgments or orders, affirm, reverse, modify or correct any such order or judgment according to law or may give directions to the Small Claims Court from which the appeal has been preferred or order a new trial or further hearing, on such terms as such High Court shall think fit.

Where defence or claim in reconvention is beyond jurisdiction of court. **27.** Where in any proceeding before any Small Claims Court any defence or claim in reconvention of the defendant involves matter beyond the jurisdiction of the Court, such defence or claim in reconvention shall not affect the competence or duty of the Court to dispose of the matter in controversy in so far as it relates to the demand of the plaintiff and the defence thereto and the claim in reconvention: Provided that in such case it shall be lawful for the Court of Appeal or any Judge thereof, if it shall be thought fit, on the application of any party to the proceeding, to order that the whole proceeding be transferred from the court in which it is instituted to some court having jurisdiction over the whole matter in controversy and in such case the record in such proceeding shall be transmitted by the Registrar of the Court to the court to which by such order the proceeding is so transferred and the same shall thenceforth be continued and proceeded in such, court as if it had been originally commenced therein.

Judge of Small Claims Court to execute judgments, &. in appeal. **28.** The Judge of every Small Claims Court shall conform to and execute all such judgments, orders, and decrees of the Supreme Court or Court of Appeal or High Court established by Article 154P of the Constitution as shall be made and pronounced in any appeal, in like manner as any original judgment or order pronounced by the said Judge could or might have been executed.

Where value of action is beyond jurisdiction of court. [\[4.37 of 1979\]](#) [110.71 of 1981](#) **29.** Where there is evidence that the value of any action filed in any Small Claims Court is over the monetary jurisdiction of that Court, the Judge shall make order accordingly and shall record such fact and thereupon the action shall stand removed to the appropriate District Court.

Amicable settlement. [\[4.37 of 1979\]](#) **30.** It shall be the duty of the Judge of the Small Claims Court by all lawful means to endeavor to bring the parties to an amicable settlement where appropriate and to remove, with their consent, the real cause of grievance it any, between them.

CHAPTER VI  
MAGISTRATES' COURTS

Powers and jurisdiction. **30.** Every Magistrates 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.

CHAPTER VII  
PRIMARY COURTS (Repealed)  
[\[14.16 of 1989\]](#) **32**-36)

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 Small Claims 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.

Attorneys at-law. **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.

(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.

Right of representation. **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.

(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.

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.

Disciplinary Committees. **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.

(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.

Justices of the Peace and **45.**

Unofficial  
Magistrates.

[\[11.71 of 1981\]](#)

[\[16.16 of 1989\]](#)

[\[2.29 of 1991\]](#)

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

(1A) The Minister may by regulation specify the officers (whether holding office permanently or temporarily) who shall be ex officio Justices of the Peace for the Republic of Sri Lanka or for any portion thereof, respectively, as is indicated in such regulation.

(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 Small Claims 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 **46.**  
of cases.

(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.

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

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.

(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.  
[\[ 2.27 of 1999\]](#)

**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 where any criminal prosecution, proceeding or matter (except on an inquiry preliminary to committal for trial) is continued before the successor of any such judge, the accused may demand that the witnesses be resummoned and reheard.

Provisions for hearing of cases where Judge is a party.  
[\[ 17.16 of 1989\]](#)

**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, Small Claims Court and the Magistrates' 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.

Conviction or acquittal no bar to any civil action.

**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.

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

**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 of Primary Court is empowered to impose.

Registrar and other officers of Courts of First instance. [52.](#)  
[\[18.16 of 1989\]](#)

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

(3) Every Deputy Fiscal appointed to a court shall be responsible for the service of process issued by that court and the execution of decrees and orders made by that court and shall act under the supervision, direction and control of the fiscal.

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.](#)  
[\[19.16 of 1989\]](#)

(1) Where in any action instituted in a High Court, District Court or a Small Claims 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 tendency 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 plaintiffs 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 injunctions may be granted at any time after the commencement of the action and before final judgment after notice to the defendant, where the object of granting an injunction will be defeated by delay, the court may enjoin the defendant until the hearing and decision of the application for an injunction but for periods not exceeding fourteen days at a time.

Contempt proceedings. **55.**

[\[20.16 of 1989\]](#)

(1) Every District Court, Small Claims Court and Magistrates' 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.

(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 fine not exceeding two thousand five hundred rupees or imprisonment, either simple or rigorous, for a period not exceeding two years;

(b) by the Small Claims Court and the Magistrate's Court fine not exceeding one thousand five hundred rupees or imprisonment either simple or rigorous for a period not exceeding eighteen 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 Magistrates 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.

(\* 1st July, 1979.)

[\[21.16 of 1989\]](#) Repealed

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 to 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. (+ Repealed by section 62 of Act No. 2 of 1978 with effect from 2nd July, 1979.)

Effect of an Order under section 3. **60A.** For the avoidance of doubts it is hereby declared that where, by reason of an Order made under section 3, any area of a judicial zone, judicial district or judicial division falls into another or new judicial zone, judicial district or judicial division, the court in which any action, proceeding or matter is pending on the day immediately preceding the date of such Order, shall have full power and jurisdiction to carry on and complete such action, proceeding or matter.

Regulations. **61.**

1380-17-2005

[1380-17-2005](#)

(1) The Minister may make 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.

Interpretation. **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.(+ Repealed by section 62 of Act No. 2 of 1978 with effect from 2nd July, 1979. = Section 62, repealing Chapter I of the Administration of Justice Law. No. 44 of 1973, and the Conciliation Board Act. No, 10 of 195S. with effect from 2nd July. 1979, omitted under the provisions of the Revision of the Legislative Enactments Act.)