

ACTS OF SRI LANKA

High Court of the Provinces (Special Provisions)

Act No 10 of 1996

AN ACT TO PROVIDE FOR THE EXERCISE, BY HIGH COURTS ESTABLISHED BY ARTICLE 154P OF THE CONSTITUTION, OF JURISDICTION TO HEAR AND DETERMINE CERTAIN CIVIL ACTIONS AND MATTERS.

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

- Short title. **1.** This Act may be cited as the High Court of the Provinces (Special Provisions) Act, No. 10 of 1996.
- Civil jurisdiction of High Court established by Article 154P of the Constitution. **2.**
- (1) Every High Court established by Article 154P of the Constitution for a Province shall, with effect from such date as the Minister may, by Order published in the Gazette appoint, in respect of such High Court have exclusive jurisdiction and shall have cognizance of and full power to hear and determine, in the manner provided for by written law, all actions, applications and proceedings specified in the First Schedule to this Act, if the party or parties defendant to such action resides or reside, or the cause of action has arisen, or the contract sought to be enforced was made, or in the case of applications or proceedings under the Companies Act, No. 17 of 1982 the registered office of the Company is situated, within the province for which such High Court is established.
- (2) Where an Order is made under subsection (1) in respect of a High Court established by Article 154P of the Constitution, the jurisdiction exercisable by such High Court under that subsection shall-
- (a) if such High Court is the High Court established for the Western Province, be exercised by that High Court sitting in Colombo and in any other place within the Western Province, as may be designated by the Minister, by Order published in the Gazette, with the concurrence of the Chief Justice : or
- (b) if such High Court is the High Court established for any other Province, be exercised by that High Court sitting in such place within that Province as may be designated by the Minister, by Order published in the Gazette, with the concurrence of the Chief Justice.
- (3) The High Court established by Article 154P of the Constitution for the Western Province shall with effect from such date as the Minister may by Order published in the Gazette appoint, have exclusive jurisdiction and shall have cognizance of, and full power to hear and determine, in the manner provided for by written law, all matters set out in the Second Schedule to this Act.
- (4) With effect from the date of the Order made under 'subsection (3) the jurisdiction exercisable under, that section, by the High Court established by Article 154P of the Constitution for the Western province, shall be exercised by that High Court sitting in Colombo and in such other place within the Western Province as may be designated by the Minister, by Order published to the Gazette, with the concurrence of the Chief Justice.
- Construction of written law in relation to matters set out in Second Schedule. **3.** Where there is a reference in any law referred to in the First Schedule or Second Schedule to this Act, to any Court, in relation to any matter set out in such Schedules (other than a reference to a Court in relation to a trial of an offence committed under any such law), such reference shall with effect from such date as may be appointed by the Minister by Order made under subsection (1) of section 2 in respect of the High Court established by Article 154P of the Constitution for the Province specified in such Order, or by Order made under subsection (3) of section 2 in respect of the High Court established by Article 154P of the Constitution for the Western Province, be deemed to be a reference to the High Court established by Article 154P of the Constitution, for the Province specified in such Order or the Western Province, as the case may be.
- Costs. **4.** The Provisions of Chapter XXI of the Civil Procedure Code (Chapter 101) shall apply to a High Court established by Article 154P of the Constitution in the matter of awarding costs, and for this purpose, the reference to "District Courts" in Part I of the Second Schedule to that Code shall be read and construed as though it were a reference to " High Courts established by Article 154P of the Constitution and District Courts ".
- Right of appeal. **5.**
- (1) Any person who is dissatisfied with any judgement pronounced by a High Court established by Article 154P of the Constitution, in the exercise of its jurisdiction under section 2, in any action, proceeding or matter to which such person is a party may prefer an appeal to the Supreme Court against such judgement, for any error in fact or in law.
- (2) Any person who is dissatisfied with any order made by a High Court established by Article 154P of the Constitution, in the exercise of its jurisdiction

Procedure for appeal.	<p>under section 2 in the course of any action, proceeding or matter to which such person is, or seeks to be, a party, may prefer an appeal to the supreme Court against such Order for the correction of any error in fact or in law, with the leave of the Supreme Court first had and obtained.</p> <p>(3) In this section, the expressions "judgement" and "order" shall have the same meanings respectively, as In section 754 (5) of the Civil Procedure Code (Chapter 101).</p> <p>6. Every appeal to the Supreme Court, and every application for leave to appeal under section 5 shall be made as nearly as may be in accordance with the procedure prescribed by Chapter LVIII of the Civil Procedure Code (Chapter 101).</p>
Objection to Jurisdiction.	<p>7. If any action or proceeding is commenced in any High Court established by Article 154P of the Constitution for any debt, demand or damage which might have been recovered in a District Court, the plaintiff in such action or proceeding shall not be entitled to any costs whatever but It shall be competent for the judge to make such order as to costs as justice may require.</p>
Where defence or claim in reconvention is beyond jurisdiction of Court.	<p>8. Where in any proceeding before any District Court any defence or claim in reconvention of the defendant involves a 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 :</p> <p>Provided that in any such case it shall be lawful for the Court of Appeal or any Judge thereof, if it thinks fit on the application of any party to the proceedings 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. In such case the record in such proceedings 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 with, in such Court as if it had been originally commenced therein.</p>
Where Value of action is beyond the jurisdiction of the Court.	<p>9. Where there is evidence that the value of any action filed in any District Court is one that should have been filed in High Court established by Article 154P of the Constitution exercising jurisdiction under section 2, the Judge shall record such fact and make order accordingly and thereupon the action shall stand removed to the appropriate Court.</p>
Transitional provisions.	<p>10. All civil actions, proceedings or matters pending in a District Court on the day preceding the date on which an Order is made under subsection (1) or subsection (3) of section 2 and which, by virtue of the provisions of such Order, a High Court established by Article 154P of the Constitution has jurisdiction to hear and determine, shall stand removed to such High Court and such High Court shall have jurisdiction to take cognizance of, hear and determine, or continue and complete, the same :</p> <p>Provided that, any such civil action proceeding or matter in which the adducing of evidence has commenced on the day preceding the date on which an Order is made under subsection (1) or subsection (3) of section 2 in the District Court, shall be heard and determined by the said District Court.</p>
Sinhala text to prevail in case of inconsistency.	<p>11. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.</p>

High Court of the Provinces (Special Provisions) 5
Act, No. 10 of 1996

FIRST SCHEDULE [Section 2(1)]

(1) All actions where the cause of action has arisen out of commercial transactions (including causes of action relating to banking, the export or import of merchandise, services, affreightment, insurance, mercantile agency, mercantile usage, and the construction of any mercantile document) in which the debt, damage or demand is for a sum exceeding one million rupees or such other amount as may be fixed by the Minister from time to time, by Notification published in the Gazette, other than actions instituted under the Debt Recovery (Special Provisions) Act, No. 2 of 1990.

(2) All applications and proceedings under sections 31, 51, 131, 210 and 211 of the Companies Act, No. 17 of 1982.

(3) All proceedings under the Code of Intellectual Property Act, No. 52 of 1979 (other than proceedings referred to in item 2 of the Second Schedule).

SECOND SCHEDULE [Section 2 (3)]

(1) All actions in which an injunction against the Registrar of Companies or the Securities and Exchange Commission of Sri Lanka, established by the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987, is prayed for in the plaint.

(2) All proceedings required to be taken in the District Court of Colombo under the Code of Intellectual Property Act, No. 52 of 1979.

(3) All appeals required to be made to the Court of Appeal under section 17 of the Fair Trading Commission Act, No. 1 of 1987.

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EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Government Notifications

D. - B 6/96

HIGH COURT OF THE PROVINCES (SPECIAL PROVISIONS) ACT, No. 10 OF 1996

Order under Section 2(1)

BY virtue of the powers vested in me by subsection (1) of section 2 of the High Court of the Provinces (Special Provisions) Act, No. 10 of 1996, I, Lakshman Bandara Kiriella, Acting Minister of Justice and Constitutional Affairs, do by this Order, appoint October 11th, 1996, as the date from which the High Court established by Article 154P of the Constitution for the Western Province, shall have exclusive jurisdiction in respect of the actions, proceedings and applications set out in the First Schedule to that Act.

LAKSHMAN BANDARA KIRIELLA,
Acting Minister of Justice and Constitutional Affairs.

Colombo,
19th September, 1996.

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L. D. - B 6/96

HIGH COURT OF THE PROVINCES (SPECIAL PROVISIONS) ACT, No. 10 OF 1996

Notification

I, Lakshman Bandara Kiriella, Acting Minister of Justice and Constitutional Affairs, do by this Notification, fix rupees three million as the amount for the purposes of paragraph (1) of the First Schedule to the High Court of the Provinces (Special Provisions) Act, No. 10 of 1996, in lieu of the sum of one million rupees specified in that paragraph.

LAKSHMAN BANDARA KIRIELLA,
Acting Minister of Justice and Constitutional Affairs.

Colombo,
19th September, 1996.

10-558/2