

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

Part II of October 13, 2023

SUPPLEMENT

(Issued on 16.10.2023)



**THE RECOGNITION AND ENFORCEMENT OF INTERNATIONAL
SETTLEMENT AGREEMENTS RESULTING FROM**

A

BILL

AN ACT to give effect to the United Nations Convention on International Settlement Agreements resulting from Mediation known as the Singapore Convention on Mediation; to make Provisions for the Recognition and Enforcement of International Settlement Agreements; and to provide for matters connected therewith or incidental thereto.

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**AN ACT TO GIVE EFFECT TO THE UNITED NATIONS CONVENTION
ON INTERNATIONAL SETTLEMENT AGREEMENTS RESULTING FROM
MEDIATION KNOWN AS THE SINGAPORE CONVENTION ON
MEDIATION; TO MAKE PROVISIONS FOR THE RECOGNITION AND
5 ENFORCEMENT OF INTERNATIONAL SETTLEMENT AGREEMENTS;
AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR
INCIDENTAL THERETO.**

WHEREAS the Convention on International Settlement Preamble
Agreements Resulting from Mediation (hereinafter referred
10 to as the “Convention”) was adopted by the United Nations
General Assembly on the Twentieth day of December Two
Thousand and Eighteen, and subsequently came into force
on the Twelfth day of September Two Thousand and Twenty:

AND WHEREAS having recognised the value of mediation
15 as a method for settling commercial disputes amicably and
noting the increase of the use of mediation internationally
and nationally, the Government of Sri Lanka signed the
Convention on the Seventh day of August Two Thousand
and Nineteen:

20 *AND WHEREAS* establishing a legal framework on
international mediation settlements under the Convention
would reduce the instances where disputes result in
termination of commercial relationships and contribute to the
development of harmonious international economic relations:

25 *AND WHEREAS* it is necessary for the Government of Sri
Lanka to enact legislative provisions to give effect to Sri
Lanka’s obligations under the Convention:

2 *The Recognition and Enforcement of International Settlement Agreements
Resulting from Mediation*

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

1. (1) This Act may be cited as the Recognition and Enforcement of International Settlement Agreements Resulting from Mediation Act, No. of 2023. Short title and the date of operation

(2) The provisions of this Act shall come into operation on such date as the Minister may, by Order published in the *Gazette* certify as the date on which the Convention enters into force in respect of Sri Lanka.

10 2. (1) The provisions of this Act shall, subject to the provisions of section 3, apply to a written settlement agreement which is international by nature at the time of its conclusion, and which has resulted from mediation and has been concluded by parties to resolve a commercial dispute Application of the Act
15 (hereinafter referred to as the “international settlement agreement”).

(2) The application of the provisions of this Act to any international settlement agreement shall be subject to the same extent specified in such reservations as may be declared
20 under Article 8 of the Convention by the Government of Sri Lanka.

3. The provisions of this Act shall not apply to- Settlements excluded from the scope of this Act

(a) settlement agreements that have been entered into, to resolve a dispute in relation to –

25 (i) a transaction engaged in by one of the parties who is a consumer, for personal, family or household purposes;

- (ii) family matters, inheritance, or employment matters; or
- (b) settlement agreements –
 - (i) that have been concluded or recorded as a judgement of a court, in the course of judicial proceedings and are enforceable as a judgement of a court; or
 - (ii) that are enforceable as an arbitral award.

10 **4.** A settlement agreement shall be international by nature at the time of its conclusion where - International settlement agreement

- (a) at least two of the parties to the settlement agreement have their places of business in different States; or
- (b) the State in which the parties to the settlement agreement have their places of business is different from either –
 - (i) the State in which a substantial part of the obligations under the settlement agreement is performed; or
 - (ii) the State with which the subject matter of the settlement agreement is most closely connected.

20 **5.** Every international settlement agreement shall be valid and enforceable unless a decree of the High Court is refused upon application made under section 6, and the obligations assumed thereunder by the parties shall be honoured by the parties as in the case of any other contractual agreement. Validity of international settlement agreement

6. (1) A party to an international settlement agreement may make an application to the High Court to have the international settlement agreement entered as a decree of the High Court for the purpose of enforcing such international settlement agreement.

Application
to the High
Court

(2) Upon receiving an application under subsection (1), if the High Court is satisfied that no grounds have been adduced to adjourn the proceedings or to refuse the grant of the relief prayed for, under the provisions of this Act, the High Court shall, on a day of which notice shall be given to the parties, proceed to enter judgement according to the international settlement agreement whereupon a decree shall be entered.

(3) Subject to the provisions of this Act, an international settlement agreement that is recorded by the High Court as a decree of the High Court may be-

- (a) enforced in the same manner as a judgement given, or an order made, by the High Court; and
- (b) relied upon by the parties to the international settlement agreement as a defence, set-off or otherwise in any court proceedings.

(4) The High Court shall have cognizance of and full power to hear and determine all actions specified in this Act.

7. Where a dispute arises in any action in relation to a matter which a party claims to have been resolved by an international settlement agreement, such international settlement agreement shall be admissible as evidence to establish that such matter has already been resolved.

Admissibility
of
international
settlement
agreement in
court as
evidence

8. (1) A party who makes an application to the High Court under section 6 or who intends to rely on an international settlement agreement which is admissible as evidence under the provisions of section 7 in any court proceeding shall submit the following documents to the High Court or court, as the case may be: -

Requirements
for
reliance on
international
settlement
agreements

- (a) The original or a duly certified copy of the international settlement agreement signed by the parties; and
- (b) evidence that the international settlement agreement resulted from mediation, such as –
 - (i) the signatures of the mediator or mediators on the international settlement agreement;
 - (ii) a document signed by the mediator or mediators certifying that the international settlement agreement was entered into as a result of mediation facilitated by such mediator or mediators, as the case may be;
 - (iii) an attestation by the institution that administered the mediation; or
 - (iv) in the absence of (i), (ii) or (iii), any other evidence acceptable to Court.

(2) For the purposes of subsection (1) “signature” shall include an electronic signature.

(3) The High Court or any other court may require the production before it of any document necessary to verify that the requirements specified in subsection (1) have been complied with.

(4) Where the international settlement agreement is not in the language of the court, the court may require the international settlement agreement to be accompanied by a certified translation in the language of the court.

5 (5) For the purposes of subsection (4), the translation shall be certified by an official or a sworn translator or by a diplomatic or a consular agent in Sri Lanka of the country in which the international settlement agreement was entered into or otherwise to the satisfaction of the court.

10 **9.** (1) The High Court to which an application is made in terms of section 6, or any other court in which an international settlement agreement is sought to be admitted as evidence in terms of section 7 may refuse to grant the relief, if any party to the international settlement agreement furnishes proof to
15 establish that –

Grounds for refusing an application to the High Court or admissibility of evidence

- (a) a party to the international settlement agreement was under some incapacity;
- (b) the international settlement agreement-
 - (i) is null and void, inoperative or incapable of
20 being performed under the applicable law;
 - (ii) is not binding, or is not final, according to its terms; or
 - (iii) has been subsequently modified;
- (c) the obligations in the international settlement
25 agreement –
 - (i) have been duly performed; or
 - (ii) are not clear or comprehensible;

- (d) granting relief would be contrary to the terms of the international settlement agreement;
 - (e) there was a serious breach by the mediator of the standards applicable to the mediator, or the mediation, without which breach that party would not have entered into the international settlement agreement; or
 - (f) there was a failure by the mediator to disclose to the parties the circumstances that raise justifiable doubts as to the mediator's impartiality or independence and the failure to disclose had a material impact or undue influence on a party, without which failure that party would not have entered into the international settlement agreement.
- 15 (2) The court may also refuse to grant relief if it finds that –
- (a) granting relief would be contrary to the public policy of Sri Lanka; or
 - (b) the subject matter of the dispute is not capable of settlement by mediation under the laws of Sri Lanka.

25 **10.** Where an international settlement agreement has been recorded as a decree of the High Court under subsection(2) of section 6 in the absence of a party to the international settlement agreement, the High Court may, upon the application of that party, set aside the decree of court on any ground on which the High Court may refuse to grant the application to record the international settlement agreement as a decree of court.

Setting aside
of
decree of
court

11. Where an application has been made in terms of section 6 and is pending, and an application or a claim relating to such international settlement agreement (hereinafter referred to as a “parallel application”) has been made and is pending 5 in any other court, in an arbitral tribunal or in any other institution having jurisdiction in Sri Lanka or in any other State, and the High Court is of the opinion that the proceedings of the parallel application may or are likely to affect the relief sought in terms of section 6, the High Court 10 may -

Parallel applications or claims

- (a) adjourn the determination of the application before it until the proceedings of the parallel application are concluded; and
- (b) on the request of a party, order the other party to 15 give suitable security.

12. (1) Every application to the High Court under section 6 of this Act, shall be made by way of petition and affidavit, and all parties to the mediation other than the petitioner or petitioners shall be named as respondents to such petition 20 and shall be given notice of the same.

Proceedings before the High Court

(2) Upon the petition and affidavit being presented, the High Court shall appoint a day within two weeks of such presentation for the determination of the matters set out in the petition, and grant the respondents a date to state their 25 objections, if any, in writing supported by affidavit, and make available copies thereof to the petitioner.

(3) Evidence shall be given by way of affidavit in proceedings before the High Court:

Provided however, where the High Court deems fit, it may 30 take evidence *viva voce* in addition to evidence given by affidavit.

(4) Where an international settlement agreement has been recorded as a decree of the High Court, it may be enforced in

the same manner as a decree entered under the provisions of the Civil Procedure Code (Chapter 101) and accordingly the provisions of Chapter XXII of that Code relating to the execution of decrees shall, *mutatis mutandis*, apply to such enforcement.

(5) The High Court shall hear and finally dispose of the case within three months of the making of the application under section 6.

10 **13.** Where notices and summons are required to be served on any person under this Act, such notices and summons shall be served in or out of Sri Lanka in accordance with Chapter VIII of the Civil Procedure Code (Chapter 101). Notices and summons

15 **14.** The provisions of the Mutual Assistance in Civil and Commercial Matters Act, No. 39 of 2000 shall apply in respect of providing assistance to any country as declared under section 4 of that Act for service of summons and other documents in a proceeding relating to a civil and commercial matter. Assistance to a country

20 **15.** Where an application is made in terms of section 6, and no grounds are submitted to refuse such application in terms of section 9 or to adjourn the proceedings in terms of section 11, the High Court shall proceed to make a judgment according to the said agreement and enter the final decree on the final date for notice returnable. Final decree on the final date for notice returnable

25 **16.** In this Act, unless the context otherwise requires- Interpretation
“electronic” shall have the same meaning as in the Electronic Transactions Act, No. 19 of 2006;
“electronic signature” shall have the same meaning as in the Electronic Transactions Act, No. 19 of 2006;

10 *The Recognition and Enforcement of International Settlement Agreements
Resulting from Mediation*

“High Court” means the High Court established for the Province by Article 154p of the Constitution and exercising civil jurisdiction under the High Court of the Provinces (Special Provisions) Act, No. 10 of 1996;

5 “mediation” means a process, irrespective of the expression used to the basis upon which the process is carried out, whereby parties attempt to reach an amicable settlement of their dispute with the assistance of one or more third parties (“the mediator”) lacking the authority to impose a solution
10 upon the parties to the dispute;

“parties” means the parties to the international settlement agreement in relation to the mediation, and does not include the mediator or mediators conducting the mediation;

“place of business” means –

- 15 (a) the principal place at which that party conducts business of such party;
- (b) if a party has more than one place of business, the place of business which has the closest relationship to the dispute resolved by the
20 international settlement agreement, having regard to the circumstances known to, or contemplated by, the parties at the time of the conclusion of the international settlement agreement;
- 25 (c) if a party does not have a place of business, it means the habitual residence of the party; and

“written” includes an electronic communication if the information contained therein is accessible so as to be useable for subsequent reference.

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

Sinhala text to prevail in case of inconsistency

