

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

Part II of June 23, 2023

SUPPLEMENT

(Issued on 27.06.2023)



CONTEMPT OF A COURT, TRIBUNAL OR INSTITUTION

A

BILL

to provide for the uniform application of the law relating to the contempt of a court, tribunal or institution; to provide for the procedure in punishing the contempt of a court, tribunal or institution; and to provide for matters connected therewith or incidental thereto

Ordered to be published by the Minister of Justice, Prison Affairs and Constitutional Reforms

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA

TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO 5

Price : Rs. 30.00

Postage : Rs.150.00

This Gazette Supplement can be downloaded from www.documents.gov.lk



Contempt of a Court, Tribunal or Institution

L.D.- O. 55/2021

AN ACT TO PROVIDE FOR THE UNIFORM APPLICATION OF THE LAW RELATING TO THE CONTEMPT OF A COURT, TRIBUNAL OR INSTITUTION; TO PROVIDE FOR THE PROCEDURE IN PUNISHING THE CONTEMPT OF A COURT, TRIBUNAL OR INSTITUTION; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

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

1. This Act may be cited as the Contempt of a Court, Tribunal or Institution Act, No. of 2023. Short title

- 5 **2.** The objects of this Act shall be to- Objects of
the Act
- (a) uphold the dignity and authority of a court, tribunal and institution;
 - (b) protect the due administration of justice;
 - (c) ensure adherence to judicial directives;
 - 10 (d) preserve and maintain the effectiveness and impartiality of a court, tribunal and institution;
 - (e) safeguard public order, public health and morals;
 - (f) strike a balance between the right of expression, fair comment and compliance with judicial directives;
 - 15 (g) set out with precision the ambit of contempt of a court, tribunal and institution; and
 - (h) ensure the observance of, and respect for, the due process of law.

2 *Contempt of a Court, Tribunal or Institution*

3. (1) Save as provided for in any other written law and subject to the provisions of the Constitution, any person who commits an act or omission with intent to-

Certain acts deemed to be contempt of a court, tribunal or institution

5 (a) bring the authority of a court, tribunal and institution and administration of justice into disrespect or disregard; or

(b) interfere with, or cause prejudice to the judicial process in relation to any ongoing litigation,

10 commits contempt of a court, tribunal or institution, as the case may be.

(2) Save as provided for in any other written law and subject to the provisions of the Constitution, any person who does any of the following acts commits contempt of a court, tribunal or institution, as the case may be: -

15 (a) willful disobedience to any judgment, decree, direction, order, writ or other process of a court, tribunal or institution;

(b) willful breach of an undertaking given to a court, tribunal or institution;

20 (c) expressing, pronouncing or publishing any matter that is not substantially true which, or doing any other act which-

25 (i) scandalizes or lowers the judicial authority or dignity of a court, tribunal or institution;

(ii) prejudices, or interferes with, the due course of any judicial proceeding; or

(iii) interferes with, or obstructs the administration of justice;

- 5 (d) (i) use of any electronic device or other instrument for audio or visual recording or both in a court, tribunal or institution, or bringing into a court, tribunal or institution any such device or instrument for the purpose of audio or visual recording or both, without the leave of the court, tribunal or institution already obtained;
- 10 (ii) publication or transmission of an audio or a visual recording or both of a proceeding or part of a proceeding of a court, tribunal or institution made by means of any electronic device or other instrument, or any such recording derived directly or indirectly from such device or instrument without the leave of the court, tribunal or institution already obtained; or
- 15 (iii) use of any electronic device or other instrument, or publication or transmission of an audio or a visual recording or both of a proceeding of a court, tribunal or institution, in contravention of any leave granted under sub-paragraph (i) or sub-paragraph (ii); or
- 20 (e) scandalizing a court, tribunal or institution, or a judge or judicial officer with intent to-
- 25 (i) interfere with the due administration of justice;
- (ii) excite dissatisfaction in the minds of the public in regard to a court, tribunal or institution; or
- 30 (iii) cast public suspicion on the administration of justice.

4 *Contempt of a Court, Tribunal or Institution*

5 4. (1) Any publication or expression of true facts made in good faith of a proceeding, judgment or order of a court, tribunal or institution on a matter of public interest shall not be deemed to be contempt of such court, tribunal or institution, where the risk of causing any impediment or prejudice to such proceeding, judgement or order is merely incidental.

Defences against contempt of a court, tribunal or institution

(2) Any publication or expression-

10 (a) of true and accurate facts of any case or proceedings before a court, tribunal or institution made without malice or intention to impair the administration of justice; or

(b) of fair comments on merits of any action or application which has been heard and decided,

15 shall not be deemed to be contempt of a court, tribunal or institution where every attempt has been made to avoid any contempt and such publication or expression has been done *bona fide*.

20 (3) The provisions of subsections (1) and (2) shall not be construed as affecting or limiting any other valid defence for contempt of a court, tribunal or institution, contained in any other written law.

25 5. (1) The Supreme Court and the Court of Appeal shall have the power to punish for contempt of itself, whether committed in its presence or hearing or elsewhere.

Power of the Supreme Court and the Court of Appeal to punish contempt of a court, tribunal or institution

(2) Where the Supreme Court or the Court of Appeal, as the case may be, in the exercise of its jurisdiction as referred to in subsection (1), takes cognizance-

30 (a) of contempt of court committed in its presence or hearing, the Supreme Court or the Court of Appeal shall hear and determine such matter in accordance with the procedure set out in section 7; and

(b) of contempt of court committed otherwise than in its presence or hearing, the Supreme Court or the Court of Appeal shall hear and determine such matter in accordance with the procedure set out in section 8.

(3) The Court of Appeal shall have the power to punish for contempt of a Court of First Instance or tribunal or institution, whether committed in its presence or hearing or elsewhere:

10 Provided however, the provisions of this section shall not prejudice or affect the rights of a Court of First Instance to punish for contempt of itself.

(4) Where the Court of Appeal, in the exercise of its jurisdiction as referred to in subsection (3), takes cognizance of contempt of a Court of First Instance, or tribunal or institution referred to in that subsection, the Court of Appeal shall hear and determine such matter in accordance with the procedure set out in section 9.

6. (1) Notwithstanding the provisions of any other written law, the Courts of First Instance shall have the power to punish for contempt of court committed in its presence or hearing or in the course of proceedings in such Courts of First Instance, or any act which is specified in this Act or in any other written law for the time being in force as being punishable as contempt of court, subject to the provisions of this Act.

Power of the Courts of First Instance to punish contempt of court

(2) Where any Court of First Instance takes cognizance of contempt of court referred to in subsection (1), such Court of First Instance shall hear and determine such matter in accordance with the procedure set out in section 10.

6 *Contempt of a Court, Tribunal or Institution*

7. (1) Where it is alleged, or appears to the Supreme Court or the Court of Appeal, as the case may be, that a person has committed contempt of court in its presence or hearing, the Supreme Court or the Court of Appeal may-

Procedure where contempt of court is in the face of the Supreme Court or the Court of Appeal

- 5 (a) cause such person to be detained in custody;
- (b) at any time before the rising of the Supreme Court or the Court of Appeal, on the day on which the contempt of court is alleged to have been committed or as early as possible thereafter, cause a rule to be
- 10 issued on him, giving particulars in writing of the contempt of court with which he is charged; and
- (c) fix a date for the hearing of the charge.

(2) On the date fixed for the hearing of the charge, the person charged with contempt of court shall be afforded an

15 opportunity to make his defence to the charge.

(3) The Supreme Court or the Court of Appeal, as the case may be, shall, after hearing the person charged with contempt of court and taking such evidence as may be necessary or as may be offered by such person, proceed either forthwith or

20 after such adjournment as the Supreme Court or the Court of Appeal may think fit, to determine the charge and to make order for the punishment or discharge the person charged.

(4) Notwithstanding anything contained in the preceding provisions of this section, where-

- 25 (a) a person charged with contempt of court under subsection (1) applies, whether orally or in writing, to have the charge against him tried by some Judge or Judges other than the Judge or Judges in whose presence or hearing the contempt of court is alleged
- 30 to have been committed; and

(b) the Court is of opinion that it is practicable to do so and that in the interests of proper administration of justice the application should be allowed,

5 it shall cause the matter to be placed, together with a statement of the facts of the case, before the Chief Justice for such directions as the Chief Justice may think fit to issue with respect to the trial of the charge.

(5) Notwithstanding anything contained in any other
10 written law, at the trial of a person charged with contempt of court under subsection (1) which is held, in pursuance of a direction issued under subsection (4), by a Judge or Judges other than the Judge or Judges in whose presence or hearing the contempt of court is alleged to have been committed,
15 the statement of facts placed before the Chief Justice under subsection (4) by the Judge or Judges in whose presence or hearing the contempt of court is alleged to have been committed shall be received in evidence, but no such Judge or Judges shall be summoned or examined as a witness.

20 (6) The provisions of subsections (2) and (3) shall, *mutatis mutandis* but subject to the provisions of subsection (5), apply to the hearing and determination of the charge by the Judge or Judges other than the Judge or Judges in whose presence or hearing the contempt of court is alleged to have
25 been committed, in pursuance of a direction issued under subsection (4).

(7) Pending the determination of a charge under this section, the Supreme court or the Court of Appeal, as the case may be, may-

30 (a) direct that the person charged with contempt of court under this section be detained in such custody as such court may specify; or

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(b) release him on bail subject to such conditions as such Court may deem fit to impose.

5 8. (1) The Supreme Court or the Court of Appeal, as the case may be, may take cognizance of contempt of court committed against it, or in disrespect of its authority, other than contempt of court committed in its presence or hearing, on-

Procedure where contempt of court is not in the face of the Supreme Court or the Court of Appeal

(a) its own motion;

(b) a motion filed by the Attorney-General; or

10 (c) a motion filed by any other person.

(2) Every motion filed under subsection (1) shall set out the particulars of the contempt of court alleged to have been committed by the person alleged to have committed the contempt of court.

15 (3) The Supreme Court or the Court of Appeal, as the case may be, shall, after pursuing the motion filed under subsection (1) and satisfying itself that a *prima facie* case of contempt of court has been established against the person alleged to have committed such contempt-

20 (a) cause a rule to be issued on such person, giving particulars in writing of the contempt of court with which he is charged;

25 (b) direct that such rule, together with a copy of the motion filed under subsection (1), be served personally on such person; and

(c) fix a date for the hearing of the charge.

(4) On the date fixed for the hearing of the charge, the person charged with contempt of court shall be afforded an opportunity to make his defence to the charge and shall be entitled to file an affidavit or to adduce evidence in his
5 defence.

(5) The Supreme Court or the Court of Appeal, as the case may be, shall hear and determine the charge after considering the affidavit filed by the person charged with contempt of court or after hearing the evidence adduced by such person,
10 as the case may be.

(6) Pending the determination of a charge under this section, the Supreme Court or the Court of Appeal, as the case may be, may direct that-

(a) the person charged with contempt of court under
15 this section be detained in such custody as it may specify; or

(b) such person be released on bail subject to such conditions as it may deem fit to impose.

9. (1) The Court of Appeal may take cognizance of
20 contempt committed against, or in disrespect of the authority of, a Court of First Instance or tribunal or an institution on-

(a) a reference made to it by such Court of First Instance tribunal or institution;

(b) a motion filed by the Attorney-General; or

25 (c) a motion filed by any other person.

Procedure for the exercise of jurisdiction of the Court of Appeal in respect of contempt committed against a Court of First Instance, tribunal or institution

(2) Every reference made or motion filed under subsection (1) shall set out the particulars of the contempt of the court,

10 *Contempt of a Court, Tribunal or Institution*

tribunal or institution as the case may be, alleged to have been committed by the person alleged to have committed such contempt.

5 (3) The Court of Appeal shall, after perusing the reference made or the motion filed under subsection (1), as the case may be, and satisfying itself that a *prima facie* case of contempt of a court, tribunal or institution, as the case may be, has been established against the person alleged to have committed such contempt-

10 (a) cause a rule to be issued on such person, giving particulars in writing of the contempt of court, tribunal or institution, with which he is charged;

15 (b) direct that such rule, together with a copy of the reference or motion made or filed under subsection (1), be served personally on such person; and

 (c) fix a date for the hearing of the charge.

20 (4) On the date fixed for the hearing of the charge, the person charged with contempt of a court, tribunal or institution shall be afforded an opportunity to make his defence to the charge and shall be entitled to file an affidavit or to adduce evidence in his defence.

25 (5) The Court of Appeal shall hear and determine the charge after considering the affidavit filed by the person charged with such contempt or after hearing the evidence adduced by such person, as the case may be.

 (6) Pending the determination of a charge under this section, the Court of Appeal may direct that-

30 (a) the person charged with contempt of a court, tribunal or institution under this section be detained in such custody as it may specify; or

- (b) such person be released on bail subject to such conditions as it may deem fit to impose.

5 **10.** (1) Where a Court of First Instance takes cognizance of contempt of court committed against, or in disrespect of the authority of, such Court of First Instance, such Court of First Instance shall, subject to the provisions of subsections (2) and (3), hear and determine such matter in accordance with the procedure set out in Chapter LXV of the Civil Procedure Code.

Procedure for the exercise of jurisdiction conferred on the Courts of First Instance to try contempt of court

10 (2) Where the Judge of a Court of First Instance referred to in subsection (1) acts under section 795 of the Civil Procedure Code, such Judge shall inquire from the accused whether he wishes to be tried by a judge other than the Judge in whose presence or hearing the contempt of court is
15 alleged to have been committed.

(3) If the accused indicates to the Judge of such Court of First Instance, in response to the inquiry under subsection (2), orally or in writing, that he wishes to be tried by a Judge other than the Judge in whose presence or hearing the
20 contempt of court is alleged to have been committed, such Judge shall cause the matter to be placed, together with the minutes of the facts recorded by such Judge, before the Chief Justice for such directions as the Chief Justice may think fit to issue with regard to the hearing of the charge.

25 **11.** (1) Where a person is found guilty of the contempt of court referred to in subsection (1) of section 5, such person shall be liable to a fine not exceeding rupees five hundred thousand or to simple imprisonment for a period not exceeding one year or to both such fine and imprisonment,
30 and on a second or subsequent conviction, such person shall be liable to a fine not exceeding rupees one million or to simple imprisonment for a period not exceeding two years, or to both such fine and imprisonment.

Punishment for contempt of a court, tribunal or institution

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(2) Where a person is found guilty of the contempt of court referred to in subsection (1) of section 6, such person shall be liable to a fine not exceeding rupees three hundred thousand or to simple imprisonment for a period not
5 exceeding six months or to both such fine and imprisonment, and on a second or subsequent conviction, such person shall be liable to a fine not exceeding rupees five hundred thousand or to simple imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

10 (3) Where a person is found guilty of contempt of a tribunal or institution under this Act, such person shall be liable to a fine not exceeding rupees one hundred thousand or to simple imprisonment for a period not exceeding three months or to both such fine and imprisonment, and on a
15 second or subsequent conviction, such person shall be liable to a fine not exceeding rupees three hundred thousand or to simple imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

(4) Notwithstanding the provisions of subsection (1), (2)
20 or (3), a person accused of contempt of a court, tribunal or institution under this Act may be discharged, or the punishment imposed on him may be remitted on an apology being made to the satisfaction of the court, tribunal or institution.

25 Explanation - An apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it *bona fide*.

(5) Nothing in this Act shall limit the power of a court to
30 hear and determine contempt of a court, tribunal or institution provided for in any other written law, either under the provisions of this Act or such other law:

Provided however, notwithstanding anything to the contrary in such other law, a court shall not impose a sentence in excess of the sentence specified in this section for contempt of a court, tribunal or institution.

- 5 **12.** (1) An appeal shall lie as of right from any order or Appeals
decision of the Court of Appeal in the exercise of its
jurisdiction to punish for contempt of a Court of First
Instance, tribunal or institution, as the case may be—
- 10 (a) where the order or decision is that of a single judge,
to a Bench of not less than two judges of the Court
of Appeal;
- (b) where the order or decision is that of a Bench of the
Court of Appeal, to the Supreme Court.
- (2) The Supreme Court or the Court of Appeal may,
15 pending any appeal, order that—
- (a) the execution of the punishment, or the order or
decision appealed against be suspended;
- (b) the appellant, if he is in confinement, be released
on bail; or
- 20 (c) the appeal be heard notwithstanding that the
appellant has not purged his contempt.
- (3) Where any person who is aggrieved by any order or
decision of a Court of First Instance, against which an appeal
may be filed, indicates to such Court of First Instance that he
25 intends to prefer an appeal against such order or decision to
the Court of Appeal, such Court of First Instance shall, until
the expiry of the time limit for the filing of the appeal, order—
- (a) the execution of the punishment, or the order or
decision appealed against be suspended; or

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(b) the appellant, if he is in confinement, be released on bail.

5 **13.** (1) A court shall not initiate any proceedings in relation to contempt of a court, tribunal or institution, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.

Period of limitation for proceedings for contempt of a court, tribunal or institution

10 (2) A tribunal or institution shall not refer to the Court of Appeal any matter relating to the contempt of such tribunal or institution, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.

14. Where contempt of a court, tribunal or institution under this Act is committed by a body of persons, then-

Contempt of a court, tribunal or institution by a body of persons

15 (a) if that body of persons is a body corporate, every director, manager or secretary of that body corporate at the time of the commission of such contempt;

20 (b) if that body of persons is a firm, every partner of that firm at the time of the commission of such contempt; and

(c) if that body of persons is an unincorporated body, every individual who is a member of such unincorporated body at the time of the commission of such contempt,

25 shall be deemed to have committed that contempt:

Provided however, any director, manager or secretary of such body corporate or any partner of such firm or any individual in such unincorporated body shall not be deemed to have committed such contempt if he proves to the

satisfaction of the court that such contempt was committed without his knowledge or that he exercised all due diligence to prevent the commission of such contempt.

5 **15.** The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other written law, and accordingly, in the event of any inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail. This Act to prevail over other law

16. In this Act, unless the context otherwise requires – Interpretation

10 “Civil Procedure Code” means, the Civil Procedure Code (Chapter 101);

15 “Court of First Instance” means, the High Court of the Republic of Sri Lanka, the High Court for a Province established by Article 154P of the Constitution, the District Court, the Family Court, the Small Claims Court, the Magistrate’s Court or the Primary Court;

20 “institution” means, an institution created and established for the administration of justice and for the adjudication and settlement of industrial and other disputes;

25 “publish” means, to disseminate, distribute, exhibit, provide or communicate by oral, visual, written, electronic or other means including by way of newspaper, radio, television or through the use of the internet or other online communication system, to the public at large or a member of the public, and includes causing to be published, and “publication” is to be construed accordingly; and

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“tribunal” means, a tribunal created and established for the administration of justice and for the adjudication and settlement of industrial and other disputes.

- 5 **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

