



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

**COMMERCIAL MEDIATION CENTRE OF
SRI LANKA (AMENDMENT)
ACT, No. 37 OF 2005**

[Certified on 21st November, 2005]

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*Commercial Mediation Centre of Sri Lanka
(Amendment) Act, No. 37 of 2005*

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L. D. — O. 86/2002.

AN ACT TO AMEND THE COMMERCIAL MEDIATION CENTRE OF
SRI LANKA ACT, NO. 44 OF 2000

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

1. This Act may be cited as the Commercial Mediation Short title.
Centre of Sri Lanka (Amendment) Act, No. 37 of 2005.

2. The following new sections are hereby inserted immediately after section 3 of the Commercial Mediation Centre of Sri Lanka Act, No. 44 of 2000, (hereinafter referred to as the “principal enactment”) and shall have effect as sections 3A, 3B, 3C, 3D, 3E and 3F of that enactment:—

“No court
action to be
instituted
without
certificate of
non-
settlement.

3A. (1) Where parties have agreed under a mediation agreement to refer any dispute for settlement by mediation in terms of this Act, notwithstanding anything in any other written law to the contrary, no proceedings in regard to a commercial dispute shall be instituted in, or be entertained by a Court unless accompanied by a certificate of non-settlement referred to in section 3F.

(2) The provisions of subsection (1) shall not apply where a party to a dispute referred to therein seeks relief in respect of any provisional remedy under Part V of the Civil Procedure Code and any action instituted in respect of any such matter may be entertained and determined by a Court only in so far as it relates to the grant of such provisional remedy.

(3) For the purposes of this section a mediation agreement may be in the form of a mediation clause in a contract or in the form of

Insertion of new
sections 3A, 3B, 3C,
3D, 3E and 3F in
the Commercial
Mediation Centre
of Sri Lanka Act,
No. 44 of 2000.

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a separate agreement by which the parties agree to refer all or any dispute which may arise between them in respect of a defined legal relationship whether contractual or otherwise, for settlement by mediation.

Dispute to be mediated in terms of rules of the Centre. 3B. An application being made to the centre for the settlement of any dispute by mediation, shall be dealt with in terms of rules made by the Board under paragraph (b) of subsection (2) of section 12.

Confidentiality. 3c. It shall be the duty of every party to a dispute and of every Mediator to maintain confidentiality in respect of documents submitted and any other matters that are revealed or discussed during the conduct of mediation sessions.

Privilege of persons making statement at a mediation session. 3D. (1) Every person who makes a statement at a mediation session shall, in respect of such statement be entitled to all the privileges which a witness giving evidence before a court of law is entitled to, in respect of such evidence.

(2) No statement made by any person at a mediation session shall be admissible in evidence in any civil or criminal proceeding.

Settlement agreement. 3E. Where, the parties to a dispute agree to a settlement, the terms of the settlement shall—

- (a) be reduced to writing; and
- (b) be signed by the parties; and
- (c) be binding as between the parties and enforceable in law as a valid contract.

Certificate of non-settlement. 3F. (1) Where the parties to a dispute do not agree to a settlement, the mediator or the mediators who shall have managed the mediation process in respect of such dispute, shall issue a Certificate stating that it was not possible to settle such dispute by mediation. Every such Certificate shall be signed by the mediator or mediators as the case may be.

(2) A certificate issued under subsection (1) may be produced in evidence in any action or proceeding instituted in any Court, and it shall not be necessary to call such person as a witness in proof thereof.

(3) The court may presume that the signature of any mediator on any Certificate of non-settlement is genuine and that the mediator signing it had authority to do so:

Provided that if in any case the Court is of opinion on the application of any party or otherwise and for reasons to be recorded that it is necessary that the mediator be present to give evidence at any proceedings before such court, such mediator shall be summoned as a witness for the purpose only of giving evidence in relation to the signing of such Certificate.”.

3. Section 5 of the principal enactment is hereby amended as follows :—

Amendment of section 5 of the principal enactment.

(1) in subsection (1) of that section by the insertion immediately after paragraph (e) thereof, of the following new paragraph :—

“(f) one member nominated by the Minister in charge of the subject of Trade and Commerce.”; and

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- (2) by the addition immediately after subsection (6) of that section of the following new subsection:—

“(7) A member appointed to the Board under paragraphs (a), (b), (c) or (d) of subsection (1) to represent a Chamber as is specified therein shall cease to hold office as a member of the Board if he ceases to be a member of the respective Chamber which he represents.”.

Sinhala text to prevail in case of inconsistency.

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

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