



# Appellate Jurisdiction Act 1876

## 1876 CHAPTER 59

### *Amendment of Acts*

#### **14 Amendment of the Act of 34 & 35 Vict. c.91 relating to the constitution of the Privy Council**

Whereas by the Act of the session of the thirty-fourth and thirty-fifth years of the reign of Her present Majesty, chapter ninety-one, intituled " An Act to make further provision for the " despatch of business by the Judicial Committee of the Privy "Council," Her Majesty was empowered to appoint and did appoint four persons qualified as in that Act mentioned to act as members of the Judicial Committee of the Privy Council at such salaries as are in the said Act mentioned, in this Act referred to as paid Judges of the Judicial Committee of the Privy Council:

And whereas the power given by the said Act of filling any vacancies occasioned by death, or otherwise, in the offices of the persons so appointed, has lapsed by efflux of time, and Her Majesty has no power to fill any such vacancies :

Be it enacted, that whenever any two of the paid Judges of the Judicial Committee of the Privy Council have died or resigned, Her Majesty may appoint a third Lord of Appeal in Ordinary in addition to the Lords of Appeal in Ordinary herein-before authorised to be appointed, and on the death or resignation of the remaining two paid Judges of the Judicial Committee of the Privy Council Her Majesty may appoint a fourth Lord of Appeal in Ordinary in addition to the Lords of Appeal in Ordinary aforesaid ; and may from time to time fill up any vacancies occurring in the offices of such third and fourth Lord of Appeal in Ordinary.

Any Lord of Appeal in Ordinary appointed in pursuance of this section shall be appointed in the same manner, hold his office by the same tenure, be entitled to the same salary and pension, and in all respects be in the same, position as if he were a Lord of Appeal in Ordinary appointed in pursuance of the power in this Act before given to Her Majesty.

Her Majesty may by Order in Council, with the advice of the Judicial Committee of Her Majesty's Privy Council or any five of them, of whom the Lord Chancellor shall be one, and of the archbishops and bishops being members of Her Majesty's

Privy Council, or any two of them, make rules for the attendance, on the hearing of ecclesiastical cases as assessors of the said Committee of such number of the archbishops and bishops of the Church of England as may be determined by such rules.

The rules may provide for the assessors being appointed for one or more year or years, or by rotation or otherwise, and for filling up any temporary or other vacancies in the office of assessor.

Any rule made in pursuance of this section shall be laid before each House of Parliament within forty days after it is made if Parliament be then sitting, or, if not then sitting, within forty days after the commencement of the then next session of Parliament.

If either House of Parliament present an address to Her Majesty within forty days after any such rule has been laid before such House, praying that any such rule may be annulled, Her Majesty may thereupon by Order in Council annul the same, and the rule so annulled shall thenceforth become void, but without prejudice nevertheless to the making of any other rule in its place, or to the validity of anything which may in the meantime have been done under any such rule.

## **15 Amendment of the Supreme Court of Judicature Acts in relation to Her Majesty's Court of Appeal**

Whereas it is expedient to amend the constitution of Her Majesty's Court of Appeal in manner herein-after mentioned: Be it enacted, that there shall be repealed so much of the fourth section of "The Supreme Court of Judicature Act, 1875," as provides that the ordinary Judges of Her Majesty's Court of Appeal (in this Act referred to as " the Court of Appeal ") shall not exceed three at any one

In addition to the number of ordinary Judges of the Court of Appeal authorised to be appointed by " The Supreme Court of Judicature Act, 1875," Her Majesty may appoint three additional ordinary Judges of that court.

The first three appointments of additional Judges under this Act shall be made by such transfer to the Court of Appeal as is in this section mentioned of three Judges of the High Court of Justice, and the vacancies so created in the High Court of Justice shall not be filled up, except in the event and to the extent herein-after mentioned.

Her Majesty may by writing, under her Sign Manual, either before or after the commencement of this Act, but so as not to take effect until the commencement thereof, transfer to the Court of Appeal from the following Divisions of the High Court of Justice, that is to say, the Queen's Bench Division, the Common Pleas Division, and the Exchequer Division, such of the Judges of the said Divisions, not exceeding three in number, as to Her Majesty may seem meet, each of whom shall have been a Judge of any one or more of such Divisions for not less than two years previously to his appointment, and shall not be an ex-officio Judge of the Court of Appeal, and every Judge so transferred shall be deemed an additional ordinary Judge of the Court of Appeal in the same manner as if he had been appointed such Judge by letters patent. No Judge shall be so transferred without his own consent.

Every additional ordinary Judge of the said Court of Appeal appointed in pursuance of this Act shall be subject to the provisions of sections twenty-nine and thirty-seven of " The Supreme Court of Judicature Act, 1873," and shall be under an obligation to go circuits and to act as Commissioner under commissions of assize or other commissions

authorised to be issued in pursuance of the said Act, in the same manner in all respects as if he were a Judge of the High Court of

There shall be paid to every additional ordinary Judge appointed in pursuance of this Act, in addition to the salary which he would otherwise receive as an ordinary Judge of the Court of Appeal, such sum on account of his expenses on circuit or under such commission as aforesaid as may be approved by the Treasury upon the recommendation of the Lord Chancellor.

Each of the Judges of the High Court of Justice who is in pursuance of this Act transferred to the Court of Appeal, by writing under the Sign Manual of Her Majesty, shall retain such officers as are attached to his person as such Judge, and are appointed and immoveable by him at his pleasure, in pursuance of " The Supreme Court of Judicature Act, 1873," and the officers so attached shall have the same rank, and hold their offices by the same tenure, and upon the same terms and conditions, and receive the same salaries, and if entitled to pensions be entitled to the same pensions, and shall, as nearly as may be, perform the same duties as if the Judges to whom they are attached had not been transferred to the Court of Appeal.

Subject as aforesaid, the provisions of the Supreme Court of Judicature Acts, 1873 and 1875, for the time being in force in relation to the appointment of ordinary Judges of Her Majesty's Court of Appeal, and to their tenure of office, and to their precedence, and to their salaries and pensions, and to the officers to be attached to such Judges, and all other provisions relating to such ordinary Judges, shall apply to the additional ordinary Judges appointed in pursuance of this section in the same manner as they apply to the other ordinary Judges of the said Court.

For the purpose of a transfer to the Court of Appeal under this section, service as a Judge in a court whose jurisdiction is transferred to the High Court shall be deemed to have been service as a Judge in any one or more of such Divisions of the High Court as are in this section in that behalf mentioned; and for the purpose of the pension of any person appointed under this Act an additional ordinary Judge of appeal, service in the High Court of Justice, or in any Court whose jurisdiction is transferred to the High Court of Justice or to the Court of Appeal, shall be deemed to have been service in the Court of Appeal.

## **16 Orders in relation to conduct of business in Her Majesty's Court of Appeal**

Orders for constituting and holding divisional courts of the Court of Appeal, and for regulating the sittings of the Court of Appeal, and of the divisional courts of appeal, may be made, and when made, in like manner rescinded or altered, by the President of the Court of Appeal, with the concurrence of the ordinary Judges' of the Court of Appeal, or any three of: them; and so much of section seventeen of " The Supreme Court of Judicature Act, 1875," as relates to the regulation' of any matters subject to be regulated by orders under this section, and so much of any rules of court as may be inconsistent with any order made under this section, shall be repealed, without prejudice nevertheless to any rules of court made in pursuance of the section so repealed, so long as such rules of court remain unaffected by orders made in pursuance of this section.

**17 Regulations as to business of High Court of Justice and divisional courts of High Court**

On and after the first day of December one thousand eight hundred and seventy-six, every action and proceeding in the High Court of Justice, and all business arising out of the same, except as is herein-after provided, shall, so far as is practicable and convenient, be heard, determined, and disposed of before a single Judge, and all proceedings in an action subsequent to the hearing or trial, and down to and including the final judgment or order, except as aforesaid, and always excepting any proceedings on appeal in the Court of Appeal, shall, so far as is practicable and convenient, be had and taken before the Judge before whom the trial or hearing of the cause took place: Provided nevertheless, that divisional courts of the High Court of Justice may be held for the transaction of any business which may for the time being be ordered by rules of court to be heard by a divisional court ; and any such divisional court when held shall be constituted of two Judges of the court and no more, unless the President of the Division to which such divisional court belongs, with the concurrence of the other Judges of such Division, or a majority thereof, is of opinion that such divisional court should be constituted of a greater number of Judges than two, in which case such court may be constituted of such number of Judges as the President, with such concurrence as aforesaid, may think expedient; nevertheless the decisions of a divisional court shall not be invalidated by reason of such court being constituted of a greater number than two Judges ; and

Rules of court for carrying into effect the enactments contained in this section shall be made on or before the first day of December one thousand eight hundred and seventy-six, and may be afterwards altered, and all rules of court to be made after the passing of this Act, whether made under " The Supreme Court of Judicature Act, 1875," or this Act, shall be made by any three or more of the following persons, of whom the Lord Chancellor shall be; one, namely, the Lord Chancellor, the Lord Chief Justice of England, the Master of the Rolls, the Lord Chief Justice of the Common Pleas, the Lord Chief Baron of the Exchequer, and four other Judges of the Supreme Court of Judicature, to be from time to time appointed for the purpose by the Lord Chancellor in writing under his hand, such appointment to continue for such time as shall be specified therein, and all such rules of court shall be laid before each House of Parliament within such time and subject to be annulled in such manner as is provided by " The Supreme Court of Judicature Act, 1875."

There shall be repealed on and after the first day of December one thousand eight hundred and seventy-six so much of sections forty, forty-one, forty-two, forty-three, forty-four, and forty-six of " The Supreme Court of Judicature Act, 1873," as is inconsistent with the provisions of this section.

**18 Power in certain events to fill vacancies occasioned in High Court of Justice by removal of Judges to Court of Appeal**

Whenever any two of the said paid Judges of the Judicial Committee of the Privy Council have died or resigned, Her Majesty may, upon an address from both Houses of Parliament, representing that the state of business in the High Court of Justice is such as to require the appointment of an additional Judge, fill up one of the vacancies created by the transfer herein-before authorised, by appointing one new Judge of the said High Court in any Division thereof; and on the death or retirement of the remaining two paid Judges of the said Judicial Committee, Her Majesty may, upon the like address, fill up in like manner another of the said vacancies, and from time to time fill up any vacancies occurring in the offices of Judges so appointed.

**19 Attendance of Judges of High Court of Justice on Court of Appeal**

Where a Judge of the High Court of Justice has been requested to attend as an additional Judge at the sittings of the Court of Appeal under section four of "The Supreme Court of Judicature Act, 1873," such Judge shall, although the period has expired during which his attendance was requested, attend the sittings of the Court of Appeal for the purpose of giving judgment or otherwise in relation to any case which may have been heard by the Court of Appeal during his attendance on the Court of Appeal.

**20 Amendment of Judicature Acts as to appeals from High Court of Justice in certain cases**

Where by Act of Parliament it is provided that the decision of any Court or Judge the jurisdiction of which Court or Judge is transferred to the High Court of Justice is to be final, an appeal shall not lie in any such case from the decision of the High Court of Justice, or of any Judge thereof, to Her Majesty's Court of Appeal.

**21 Continuation until 1st January 1878 of s.34 of 38 & 39 Vict c.77 as to vacancies in legal offices**

Whereas by section thirty-four of " The Supreme Court of Judicature Act, 1875," it is enacted that upon the occurrence of any vacancy in an office coming within the provisions of section seventy-seven of " The Supreme Court of Judicature Act, 1873," the Lord High Chancellor of Great Britain may, with the concurrence of the Treasury, suspend the making any appointment to such office for any period not later than the first day of January one thousand eight hundred and seventy-seven, and may, if it be necessary, make provision in such manner as he thinks fit for the temporary discharge in the meantime of the duties of such office, and it is expedient to extend the said period as herein-after mentioned : Be it therefore enacted as follows :

The said section shall be construed as if the first day of January one thousand eight hundred and seventy-eight were therein inserted in lieu of the first day of January one thousand eight hundred and seventy-seven.

**22 Appointment of deputy by district registrars**

A district registrar of the Supreme Court of Judicature may from time to time, but in each case with the approval of the Lord Chancellor and subject to such regulations as the Lord Chancellor may from time to time make, appoint a deputy, and all acts authorised or required to be done by, to, or before a district registrar may be done by, to, or before any deputy so appointed : Provided always, that in no case such appointment shall be made for a period exceeding three months. This section shall come into force at the time of the passing of this Act.

**23 Appointment of vice-admiral, judge, and officers of Vice Admiralty Court**

Whereas by " The Vice-Admiralty Courts Act, 1863," it is enacted, that " nothing in this Act contained shall be taken to " affect the power of the Admiralty to appoint any vice-admiral, " or any judge, registrar, marshal, or other officer of any Vice-Admiralty Court, as heretofore, by warrant from the Admiralty, " and by letters patent issued under the seal of the High Court of " Admiralty of England :"

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*Status: This is the original version (as it was originally enacted).*

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And whereas since the commencement of the Supreme Court of Judicature Acts, 1873 and 1875, doubts have arisen with respect to the exercise of the said power of the Admiralty, and it is expedient to remove such doubts : Be it therefore enacted as follows :

Any power of the Admiralty to appoint or cancel the appointment of a vice-admiral, or a judge, registrar, marshal, or other officer of a Vice-Admiralty Court, may, after the passing of this Act, be exercised by some writing under the hands of the Admiralty, and the seal of the office of Admiralty, and in such form as the Admiralty from time to time direct.

Every appointment so made shall have the same effect, and every vice-admiral, judge, registrar, marshal, and other officer so appointed shall have the same jurisdiction, power, and authority, and be subject to the same obligation, as if he had been appointed before the commencement of the Supreme Court of Judicature Acts, 1873 and 1875, under the seal of the High Court of Admiralty of England.

" Admiralty " in this section means the Lord High Admiral, or the Commissioners for executing his office, or any two of such Commissioners.