

[1 & 2 GEO. 5.] *Salford Hundred Court of Record* [Ch. clxxii.]
Act, 1911.



CHAPTER clxxii.

An Act to amend the Salford Hundred Court of Record A.D. 1911.
Act 1868. [16th December 1911.]

BE it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. For the purposes of the Salford Hundred Court of Record Act 1868 (in this Act referred to as "the principal Act") and this Act the word "Hundred" shall mean a district coterminous with the area which forms the court districts for the ordinary jurisdiction of the county court of Lancashire held at Manchester and the county court of Lancashire held at Salford.

Amendment
as to area
of court's
jurisdiction.
31 & 32 Vict.
c. cxxx.

2. Paragraph (1) of section six of the principal Act (which relates to matters over which the court has jurisdiction) shall have effect as if the words "if the cause of action arises wholly " or in part within the Hundred " were substituted therein for the words "if the cause of action arise within the Hundred."

Court to
have juris-
diction
where part
of cause of
action arises
in Hundred.

3.--(1) The Chancellor of the Duchy of Lancaster may for the purpose of extending the jurisdiction of the court by order direct that section six of the principal Act shall have effect as if the words "one hundred pounds" were substituted therein for the words "fifty pounds" wherever those words occur and while any such order is in force that section shall have effect accordingly.

Power to
extend juris-
diction to
claims not
exceeding
100l.

(2) Any order under this section may (without prejudice to the power to make a new order) be at any time revoked by the Chancellor or may be made so as to have effect only for the period specified in the order.

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Jurisdiction in
actions for
defamation
seduction and
breach of pro-
mise abolished.

4. Notwithstanding anything in section six of the principal Act the court shall not have cognizance of any action for any libel or slander or for seduction or for breach of promise of marriage whether the parties consent or not.

Restriction
on service
out of juris-
diction.

5.—(1) Notwithstanding anything in section forty of the principal Act no writ or notice of a writ shall be served outside the Hundred except with the leave of the court and leave for this purpose shall not be given unless it is shown to the satisfaction of the court that the cause of action arose wholly or in part within the Hundred.

(2) An application for leave shall be made in such manner and the granting of leave shall be subject to such conditions and restrictions as may be prescribed by rules of court under this Act.

(3) Every writ or notice of a writ to be served outside the Hundred shall contain on the face of it a statement that the leave of the court for the writ or notice to be so served has been duly obtained and a statement that the defendant may object to the jurisdiction of the court at any time before entering an appearance and of the mode in which the objection may be made.

(4) Nothing in this Act or in the rules shall authorise the process of the court to be served under this section outside the Hundred unless the court is satisfied that the case can be as expeditiously as conveniently and as cheaply tried in the Salford Hundred Court as in the local county court.

(5) Nothing in this Act or in the rules and orders to be made under section thirteen hereof shall authorise the process of the court to be served under this section in the towns of Bury and Oldham contrary to the provisions of their local Acts specified in the First Schedule hereto or contrary to the Orders in Council relating to the towns of Bolton Rochdale and Heywood specified in that schedule.

Provision in
case of action
or matter
where court
has no juris-
diction.

6. Whenever in the course of any action or matter it appears to the judge that the court has no jurisdiction the judge shall (unless the parties consent to the court having jurisdiction in manner provided by the principal Act in a case where the court has jurisdiction on such a consent being given) order the action or matter to be struck out and shall have power

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to award costs in the same manner to the same extent and recoverable in the same manner as if the court had jurisdiction therein and the plaintiff had not appeared or had appeared and failed to prove his claim. A.D. 1911.

7. All orders made and decisions and directions given by the registrar shall be subject to appeal to the judge. Appeal from registrar to judge.

8. Subject to the provisions of this section if any party in any action or matter is dissatisfied with any verdict given or judgment entered in or order not being an interlocutory order made by the court he may appeal to the Court of Appeal in such manner and subject to such conditions as may be for the time being provided by rules of the Supreme Court: Appeal from court to Court of Appeal.

Provided that a plaintiff shall not be entitled to appeal against any refusal of the judge to give him liberty to enter judgment summarily on any specially endorsed writ.

9. The appointment of a deputy-registrar shall be in the power of the council of the city of Manchester instead of in the power of the registrar with the approbation of the council and accordingly section twenty-six of the principal Act (which relates to that appointment) shall be read as if the words "the council" were substituted for the words "the registrar with the approbation of the council." Appointment of deputy-registrar to be by Manchester City Council.

10. The number of jurors to be summoned under section sixty-eight of the principal Act shall be not less than twenty-four and accordingly in that section the word "twenty-four" shall be substituted for "thirty-six" and the words "nor more than sixty" shall be omitted. Amendment as to number of persons summoned as jurors.

11. The principal Act shall have effect as if the expressions "solicitor" and "solicitor of the Supreme Court" were therein substituted for the expressions "attorney" and "attorney of one of the superior courts." Substitution of "solicitor" for "attorney."

12.—(1) Section one hundred and three of the principal Act (which gives power to any one of the judges of the superior courts at Westminster to order a commission to issue for the examination of witnesses) shall be read as if any one of the judges of the High Court were substituted for any one of the judges of the superior courts at Westminster, Miscellaneous amendments.

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(2) Any persons committed to custody by the judge under section five of the Debtors Act 1869 may be committed if the judge think fit to the gaol of the city of Manchester.

Committee
to frame
rules and
scales of
costs.

13.—(1) A committee to be nominated by the Chancellor of the Duchy of Lancaster may subject to the approval of the authority for the time being empowered to make rules for the Supreme Court make rules and orders for regulating the whole of the practice of the court and the forms of proceedings therein and the scales of costs.

(2) The rules and orders made under this section shall so far as conveniently may be adopt and apply to the court the rules and orders for the time being in force which regulate the practice and procedure of the High Court and shall include rules providing—

- (a) for the special indorsement of writs in any class of cases in which such indorsement is for the time being provided for by rules of the Supreme Court; and
- (b) for preventing any statement of claim other than the writ being delivered in any case in which a writ can be specially indorsed; and
- (c) for enabling the plaintiff where the writ has been specially indorsed and the defendant resides or carries on business within the Hundred to apply to the judge for liberty to enter judgment summarily; and
- (d) for prescribing the manner in which an application for leave to serve a writ or notice of a writ outside the Hundred is to be made and the conditions and restrictions under which leave so to serve a writ or notice of a writ may be granted.

(3) The rates of the scales of costs made under this section shall not be higher than those of the scales of costs for the time being in force in county courts.

(4) The rules orders and scales of costs first made under this section shall come into force on such day as the Chancellor of the Duchy of Lancaster may by order direct and as from that day all existing orders rules and scales of costs shall cease to have effect so far as they relate to the court and such rules and orders shall as to all matters to which they extend thenceforth regulate all proceedings in the court until annulled or altered by the authority by which these rules and orders are made.

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(5) In any case for which provision is not made by the principal Act or this Act or by rules under this section the general principles of practice in the High Court shall be adopted in the court. A.D. 1911.

14.--(1) Subject to the approval of the Vice-Chancellor of the County Palatine of Lancaster any action or matter pending in the court may at any stage by order of the judge be transferred from the court to the Court of Chancery of the County Palatine of Lancaster (in this Act called "the Lancaster Chancery Court").

Transfer of
matters from
court to
Lancaster
Chancery
Court.

(2) Where an order for transfer is made under this section the action or matter to which the order relates shall proceed in all respects as if it had been commenced in the Lancaster Chancery Court except that the costs of the order and of proceedings prior thereto shall be allowed according to the scale in force.

15. In this Act unless the context otherwise requires or admits— Definitions.

The expression "writ" includes a summons or other process;

The expression "defendant" includes a respondent.

16.--(1) This Act may be cited as the Salford Hundred Court of Record Act 1911. Short title construction and repeal.

(2) This Act shall be construed as one with the principal Act and the principal Act and this Act may be cited together as the Salford Hundred Court of Record Acts 1868 and 1911.

(3) The enactments specified in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule as to the enactments mentioned in Part I. of that schedule as from the date on which this Act comes into force and as to the enactments mentioned in Part II. of that schedule as from the date on which rules and orders made under this Act for regulating the whole practice of the court and the forms of proceedings therein and the scales of costs come into force.

17. This Act shall come into force on such date not later than the first day of April nineteen hundred and twelve as may be appointed for that purpose by the Chancellor of the Duchy of Lancaster. Commence-
ment of Act.

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SCHEDULES.

FIRST SCHEDULE.

BURY CORPORATION ACT 1906 Section 16 (6 Edw. 7. c. cxvi. s. 16).

OLDHAM CORPORATION ACT 1886 Section 45 (49 & 50 Vict.
c. cxvii. s. 45).

ORDERS IN COUNCIL.

AT THE COURT OF OSBORNE HOUSE ISLE OF WIGHT

The 16th day of August 1886.

PRESENT:

The Queen's most Excellent Majesty in Council.

It was ordered that from and after the 30th day of September 1886 the jurisdiction of the Salford Hundred Court shall be excluded in all causes whereof by reason of the cause of action arising or of any defendant dwelling or carrying on business within the municipal limits of the Borough of Bolton the County Court of Lancashire holden at Bolton hath cognisance and wherein the debt or damages sought to be recovered shall not exceed the sum of five pounds.

(Signed) C. L. PEEL.

BOROUGH OF HEYWOOD.

Notice.

By an Order of Her Majesty in Council dated 15th March 1893.

It is ordered and declared that from and after the 15th day of April 1893 the jurisdiction of the said Court of Record for the Hundred of Salford shall be excluded throughout the whole of the districts assigned or which may hereafter be assigned to the County Courts of Lancashire holden at Bury and Rochdale respectively in all causes whereof (by reason of the cause of action arising or of any defendant dwelling or carrying on business within the municipal limits of the Borough of Heywood) the said County Courts or either of them have or has for the time being by law cognisance and wherein the debt or damage sought to be recovered shall not exceed the sum of five pounds.

(Signed) C. L. PEEL.

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BOROUGH OF ROCHDALE.

A.D. 1911.

Notice.

By an Order of Her Majesty in Council dated 15th March 1893.

It was ordered that in the case of all causes commenced after this date whereof by reason of the cause of action arising or the dwelling of any defendant within the municipal limits of the Borough of Rochdale the County Court of Lancashire holden at Rochdale hath cognisance and wherein the debt or damages sought to be recovered shall not exceed the sum of five pounds the jurisdiction of the Court of Record for the Hundred of Salford be and the same is hereby excluded.

(Signed) C. L. PEEL.

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
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PART I.

31 & 32 Vict. c. cxxx.	The Salford Hundred Court of Record Act 1868.	Section six from "Provided always" to the end of the section sections seven twenty-nine thirty thirty-eight forty-one fifty-one fifty-three to sixty-six (both inclusive) in section sixty-eight the words "nor more than sixty" sections seventy-nine to eighty-seven (both inclusive) eighty-nine to ninety-five (both inclusive) in section one hundred and one the words "where a consent to the jurisdiction of the court shall have been signed and filed as hereinbefore-mentioned" sections one hundred and ten to one hundred and thirty-three (both inclusive) one hundred and thirty-seven and one hundred and thirty-eight.
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PART II.

Session and Chapter.	Short Title.	Extent of Repeal.
31 & 32 Vict. c. cxxx.	The Salford Hundred Court of Record Act 1868.	Sections forty-two to fifty (both inclusive) seventy seventy-one seventy - seven ninety - six to ninety-nine (both inclusive) and one hundred and nine.

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