

1970

c 97 The Judicature Amendment Act, 1970 (No. 4)

Ontario

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CHAPTER 97

An Act to amend The Judicature Act

Assented to November 13th, 1970
Session Prorogued November 13th, 1970

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Judicature Act* is amended by adding thereto the following clause: R.S.O. 1960,
c. 197, s. 1,
amended

(ga) "Divisional Court" means the Divisional Court of the High Court.

2. *The Judicature Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 197,
amended

5a. There shall be a division of the High Court to be known as the Divisional Court of the High Court of Justice for Ontario consisting of the Chief Justice of the High Court who shall be president of the court and such other judges of the Divisional Court as may be designated by him from time to time. Divisional
Court of the
High Court

5b. Every judge of the High Court is also a judge of the Divisional Court. Jurisdiction
of judges

3. *The Judicature Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 197,
amended

14a.—(1) The Divisional Court has jurisdiction to hear, determine and dispose of, Jurisdiction
of Divisional
Court

(a) all appeals to the Supreme Court under any Act other than this Act and *The County Courts Act*; R.S.O. 1960,
c. 76

(b) applications by way of prohibition, mandamus and certiorari;

(c) all appeals from orders or decisions of judges of the High Court in regard to prohibition, mandamus or certiorari;

(d)

- (d) all appeals from judgments, orders or decisions of a judge of the High Court or a judge of the Divisional Court in regard to matters of practice or procedure that do not affect the ultimate rights of any party;
- (e) all appeals by way of stated case to the Supreme Court under any Act other than *The Summary Convictions Act*;
- (f) all appeals from final orders of the Master of the Supreme Court.

R.S.O. 1960,
c. 387

Existing
appeals to
Supreme
Court
R.S.O. 1960,
c. 76

- (2) Where, by or under any Act, other than this Act and *The County Courts Act*, provision is made for an appeal to the High Court or the Court of Appeal, or to a judge thereof, or to a judge of the Supreme Court, including such an appeal by way of stated case, such provision shall be deemed to provide that the appeal shall be to the Supreme Court and clause a of subsection 1 applies.

R.S.O. 1960,
c. 197, s. 26,
subs. 1, cl. c,
amended

4.—(1) Clause c of subsection 1 of section 26 of *The Judicature Act* is amended by striking out “and, subject to the rules, from any other judgment, order or decision of a judge in chambers in regard to a matter of practice or procedure” in the third, fourth, fifth and sixth lines, so that the clause shall read as follows:

- (c) any judgment, order or decision of a judge in chambers in regard to a matter of practice or procedure that affects the ultimate rights of any party.

R.S.O. 1960,
c. 197, s. 26,
subs. 1,
amended

(2) Subsection 1 of the said section 26 is amended by adding at the end thereof “except that where such judgment, order or decision is that of the Divisional Court, the appeal shall be on questions of law only and is subject to the leave of the Court of Appeal”.

R.S.O. 1960,
c. 197, s. 40,
subs. 1a
(1968, c. 59,
s. 2),
amended

5. Subsection 1a of section 40 of *The Judicature Act*, as enacted by section 2 of *The Judicature Amendment Act, 1968*, is amended by inserting after “order” in the second line “for corollary relief”, so that the subsection shall read as follows:

Exception
1968, c. 24
(Can.)

- (1a) An appeal to the Court of Appeal from an interlocutory order for corollary relief under the *Divorce Act* (Canada) may be heard without leave before one justice of appeal sitting alone.

R.S.O. 1960,
c. 197,
amended

6. *The Judicature Act* is amended by adding thereto the following section:

44a.—(1) Except where otherwise provided, every proceeding in the Divisional Court shall be heard, determined and disposed of before three judges thereof sitting together of whom one shall be the Chief Justice of the High Court or a judge of the High Court designated by him, and the sitting shall be presided over by the Chief Justice of the High Court or his designee.

Hearings of
Divisional
Court

(2) The Divisional Court may sit in two or more sections as the Chief Justice of the High Court directs from time to time.

Sections

(3) In accordance with the rules, sittings of the Divisional Court shall be held in Toronto continuously, except during vacations and holidays, and shall be held in London, Ottawa, Sudbury, Sault Ste. Marie and Thunder Bay at such times as the Chief Justice of the High Court may fix for the expeditious dispatch of the matters set down for hearing at those places.

Time and
place of
sittings

(4) A judge of the Divisional Court shall not sit as a member of the Divisional Court considering an appeal from his own decision.

Judge
not to sit
on own
appeal

7.—(1) Subsection 3 of section 66 of *The Judicature Act* is amended by striking out "Osgoode Hall" in the sixth and seventh lines.

R.S.O. 1960,
c. 197, s. 66,
subs. 3,
amended

(2) Subsection 4 of the said section 66 is amended by striking out "Osgoode Hall" in the third line.

R.S.O. 1960,
c. 197, s. 66,
subs. 4,
amended

8. Subsection 3 of section 83 of *The Judicature Act* is amended by striking out "Osgoode Hall" in the sixth and seventh lines.

R.S.O. 1960,
c. 197, s. 83,
subs. 3,
amended

9. Section 88 of *The Judicature Act* is amended by inserting after "at" in the fourth line "or adjacent to", so that the section shall read as follows:

R.S.O. 1960,
c. 197, s. 88,
amended

88. The officers in Toronto, save the Official Guardian, special examiners, stenographic reporters and any official referee other than one holding that office *ex officio*, shall keep their offices at or adjacent to Osgoode Hall, in the City of Toronto.

Certain
officers to
keep their
offices at
Osgoode Hall

10. Section 91 of *The Judicature Act* is repealed and the following substituted therefor:

R.S.O. 1960,
c. 197, s. 91,
re-enacted

91.—(1) In this section, "holiday" means,

Holiday
defined

(a) a holiday as defined in *The Interpretation Act*;

R.S.O. 1960,
c. 191

(b) Saturday;

(c)

- (c) the day proclaimed as Civic Holiday in the municipality in which the court office is located;
- (d) the 26th day of December in a year in which Christmas Day falls on a day other than Saturday, or the 27th day of December in a year in which Christmas Day falls on a Saturday.

Office hours

- (2) Except on holidays when they shall be closed, every local registrar's office and the offices of the Supreme Court in Toronto shall be kept open from 9.30 o'clock in the forenoon until 4.30 o'clock in the afternoon.

R.S.O. 1960,
c. 197, s. 115,
subs. 1,
amended

11.—(1) Subsection 1 of section 115 of *The Judicature Act* is amended by striking out "Except in the County of York" in the first line, so that the subsection shall read as follows:

County
court judges
are local
judges

- (1) Every judge of a county court is a local judge of the High Court for the purposes of his jurisdiction in actions in the Supreme Court, and may be styled a local judge of the Supreme Court, and has, in all causes and actions in the Supreme Court, subject to the rules, power and authority to do and perform all such acts and transact all such business in respect of matters and causes in or before the High Court as he is by statute or the rules empowered to do and perform.

R.S.O. 1960,
c. 197, s. 115,
amended

(2) The said section 115 is amended by adding thereto the following subsection:

Jurisdiction
of local
judges in
divorce
actions

- (3) Without limiting the generality of subsections 1 and 2, the jurisdiction of the local judges of the High Court extends to the exercising of all such powers and authorities and the performing of such acts and the transacting of all such business as may be exercised, performed or transacted by the Supreme Court or a judge thereof under the *Divorce Act* (Canada).

1967-68,
c. 24 (Can.)

Application
of sections
1-4, 6, 11

12. Sections 1, 2, 3, 4, 6 and 11 do not apply to actions or proceedings commenced before those sections come into force.

Commence-
ment

13.—(1) This Act, except sections 1, 2, 3, 4, 6 and 11, comes into force on the day it receives Royal Assent.

(2) Sections 1, 2, 3, 4, 6 and 11 come into force on a day^{Idem} to be named by the Lieutenant Governor by his proclamation.

14. This Act may be cited as *The Judicature Amendment*^{Short title} *Act, 1970. (No. 4).*

