

Judicial Committee Act 1833

Imperial Act 41
Date of assent 14 August 1833

Judicial Committee Act 1833, sections 1, 3, 5, 6–9, 11–13, 15–21, 23, 24, and 28: ceased to have effect as part of the law of New Zealand, on 1 January 2004, by section 49(1) of the Supreme Court Act 2003 (2003 No 53).

Contents

	Page
Title	2
1 Certain persons to form a committee, to be styled “The Judicial Committee of the Privy Council”	2
3 All appeals from sentence of any Judge, etc to be referred by His Majesty to the Committee, to report thereon	2
5 No matter to be heard, etc by Judicial Committee unless 3 members are present, exclusive of Lord President	3
6 In case the King directs the attendance of any Judge, a member of the Committee, arrangements to be made by other Judges of the Court	3
7 Evidence may be taken viva voce or upon written depositions	4
8 Committee may order any particular witnesses to be examined, and as to any particular facts, and may remit causes for rehearing	4
9 Witnesses to be examined on oath, and to be liable to punishment for perjury	5
11 Committee may, in certain cases, direct depositions to be read at the trial of the issue	5
12 May make such orders as to the admission of evidence as is made by the Court of Chancery	5
13 And may direct new trials of issues	6
15 Costs to be in the discretion of the Committee	6
16 Decrees to be enrolled	6
17 Committees may refer matters to Registrar in same manner as matters are by Court of Chancery referred to a Master	6
18 The King may appoint Registrar	7
19 Attendance of witnesses, and production of papers, etc, may be compelled by subpoena	7

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this eprint. See the notes at the end of this eprint for further details.

Source: New Zealand Parliamentary Library, International Documents Collection.

20	Time of appealing	7
21	Decrees for courts abroad to be carried into effect as the King in Council shall direct. Act not to abridge powers of Privy Council	8
23	Orders made on such appeals to have effect notwithstanding death of parties, etc	8
24	His Majesty empowered to make orders for regulating the mode, etc of such appeals	8
28	Power of enforcing decrees. 2 & 3 Will 4 c 93	9

An Act for the better administration of justice in His Majesty's Privy Council.

1 Certain persons to form a committee, to be styled "The Judicial Committee of the Privy Council"

That the President for the time being of His Majesty's Privy Council, the Lord High Chancellor of "Great Britain" for the time being, and such of the members of His Majesty's Privy Council as shall from time to time hold any of the offices following, that is to say, the Office of Lord Keeper or First Lord Commissioner of the Great Seal of "Great Britain", and also all persons members of His Majesty's Privy Council who shall have been President thereof, or shall have held any of the other offices herein-before mentioned, shall form a committee of His Majesty's said Privy Council, and shall be styled "The Judicial Committee of the Privy Council": Provided nevertheless, that it shall be lawful for His Majesty from time to time, as and when he shall think fit, by his Sign Manual, to appoint any 2 other persons, being Privy Councillors, to be members of the said Committee.

Section 1 was amended by section 1 Statute Law Revision Act 1874 (37 & 38 Vict., c 35) and section 1 Statute Law Revision Act (No 2) 1888 (51 & 52 Vict., c 57).

3 All appeals from sentence of any Judge, etc to be referred by His Majesty to the Committee, to report thereon

And be it further enacted, that all appeals or complaints in the nature of appeals whatever, which, either by virtue of this Act, or of any law, statute, or custom, may be brought before His

Majesty or His Majesty in Council from or in respect of the determination, sentence, rule, or order of any Court, Judge, or judicial officer, and all such appeals as are now pending and unheard, shall from and after the passing of this Act be referred by His Majesty to the said Judicial Committee of His Privy Council, and that such appeals, causes, and matters shall be heard by the said Judicial Committee, and a report or recommendation thereon shall be made to His Majesty in Council for His decision thereon as heretofore, in the same manner and form as has been heretofore the custom with respect to matters referred by His Majesty to the whole of His Privy Council or a committee thereof (the nature of such report or recommendation being always stated in open court).

5 No matter to be heard, etc by Judicial Committee unless 3 members are present, exclusive of Lord President

No matter shall be heard, nor shall any order, report, or recommendation be made, by the said Judicial Committee, in pursuance of the said Act or any other Act, unless in the presence of at least 3 members of the said Committee, exclusive of the Lord President of Her Majesty's Privy Council for the time being.

Section 5 was substituted by section 16 Court of Chancery Act 1851 (14 & 15 Vict, c 83)

6 In case the King directs the attendance of any Judge, a member of the Committee, arrangements to be made by other Judges of the Court

And be it further enacted, that in case His Majesty shall be pleased, by Directions under His Sign Manual, to require the attendance at the said Committee for the purposes of this Act of any member or members of the said Privy Council who shall be a Judge or Judges of the Court of King's Bench, or of the Court of Common Pleas, or of the Court of Exchequer, such arrangements for dispensing with the attendance of such Judge or Judges upon his or their ordinary duties during the time of such attendance at the Privy Council as aforesaid shall be made by the Judges of the Court or Courts to which such Judge or Judges shall belong respectively in regard to the business of

the Court, and by the Judges of the said 3 Courts, or by any 8 or more of such Judges, including the Chiefs of the several Courts, in regard to all other duties, as may be necessary and consistent with the Public Service.

7 Evidence may be taken viva voce or upon written depositions

And be it enacted, that it shall be lawful for the said Judicial Committee, in any matter which shall be referred to such Committee, to examine witnesses by word of mouth, (and either before or after examination by deposition,) or to direct that the depositions of any witness shall be taken in writing by the Registrar of the said Privy Council, to be appointed by His Majesty as hereinafter mentioned, or by such other person or persons, and in such manner, order, and course as His Majesty in Council or the said Judicial Committee shall appoint and direct; and that the said Registrar and such other person or persons so to be appointed shall have the same powers as are now possessed by an Examiner of the High Court of Chancery or of any Court Ecclesiastical.

8 Committee may order any particular witnesses to be examined, and as to any particular facts, and may remit causes for rehearing

And be it enacted, that in any matter which shall come before the said Judicial Committee it shall be lawful for the said Committee to direct that such witnesses shall be examined or re-examined, and as to such facts as to the said Committee shall seem fit, notwithstanding any such witness may not have been examined, or no evidence may have been given on any such facts in a previous stage of the matter; and it shall also be lawful for His Majesty in Council, on the recommendation of the said Committee, upon any appeal, to remit the matter which shall be the subject of such appeal to the Court from the decision of which such appeal shall have been made, and at the same time to direct that such Court shall rehear such matter, in such form, and either generally or upon certain points only, and upon such rehearing take such additional evidence, though before rejected, or reject such evidence before admitted, as His

Majesty in Council shall direct; and further, on any such remitting or otherwise, it shall be lawful for His Majesty in Council to direct that 1 or more feigned issue or issues shall be tried in any Court in any of His Majesty's Dominions abroad, for any purpose for which such issue or issues shall to His Majesty in Council seem proper.

9 Witnesses to be examined on oath, and to be liable to punishment for perjury

And be it enacted, that every witness who shall be examined in pursuance of this Act shall give his or her evidence upon oath, or if a Quaker or Moravian upon solemn affirmation, which oath and affirmation respectively shall be administered by the said Judicial Committee and Registrar, and by such other person or persons as His Majesty in Council or the said Judicial Committee shall appoint; and that every such witness who shall wilfully swear or affirm falsely shall be deemed guilty of perjury, and shall be punished accordingly.

11 Committee may, in certain cases, direct depositions to be read at the trial of the issue

And be it enacted, that it shall be in the discretion of the said Judicial Committee to direct that, on the trial of any such issue, the depositions already taken of any witness who shall have died, or who shall be incapable to give oral testimony, shall be received in evidence; and further, that such deeds, evidences, and writings shall be produced, and that such facts shall be admitted, as to the said Committee shall seem fit.

12 May make such orders as to the admission of evidence as is made by the Court of Chancery

And be it enacted, that it shall be lawful for the said Judicial Committee to make such and the like orders respecting the admission of persons, whether parties or others, to be examined as witnesses upon the trial of any such issues as aforesaid, as the Lord High Chancellor or the Court of Chancery has been used to make respecting the admission of witnesses upon the trial of issues directed by the Lord Chancellor or the Court of Chancery.

13 And may direct new trials of issues

And be it enacted, that it shall be lawful for the said Judicial Committee to direct 1 or more new trial or new trials of any issue, either generally or upon certain points only; and that in case any witness examined at a former trial of the same issue shall have died, or have, through bodily or mental disease or infirmity, become incapable to repeat his testimony, it shall be lawful for the said Committee to direct that parol evidence of the testimony of such witness shall be received.

15 Costs to be in the discretion of the Committee

And be it enacted, that the costs incurred in the prosecution of any appeal or matter referred to the said Judicial Committee, and of such issues as the same Committee shall under this Act direct, shall be paid by such party or parties, person or persons, and be taxed by the aforesaid Registrar, or such other person or persons, to be appointed by His Majesty in Council or the said Judicial Committee, and in such manner as the said Committee shall direct.

16 Decrees to be enrolled

And be it further enacted, that the orders or decrees of His Majesty in Council made, in pursuance of any recommendation of the said Judicial Committee, in any matter of appeal from the judgment or order of any court or Judge, shall be enrolled, for safe custody, in such manner, and the same may be inspected and copies thereof taken under such regulations, as His Majesty in Council shall direct.

17 Committees may refer matters to Registrar in same manner as matters are by Court of Chancery referred to a Master

And be it further enacted, that it shall be lawful for the said Committee to refer any matters to be examined and reported on to the aforesaid Registrar, or to such other person or persons as shall be appointed by His Majesty in Council or by the said Judicial Committee, in the same manner and for the like purposes as matters are referred by the Court of Chancery to a Master of the said Court; and that for the purposes of this Act

the said Registrar and the said person or persons so to be appointed shall have the same powers and authorities as are now possessed by a Master in Chancery.

18 The King may appoint Registrar

And be it further enacted, that it shall be lawful for His Majesty, under his Sign Manual, to appoint any person to be the Registrar of the said Privy Council, as regards the purposes of this Act, and to direct what duties shall be performed by the said Registrar.

19 Attendance of witnesses, and production of papers, etc, may be compelled by subpoena

And be it further enacted, that it shall be lawful for the President for the time being of the said Privy Council to require the attendance of any witnesses, and the production of any deeds, evidences, or writings, by writ to be issued by such President in such and the same form, or as nearly as may be, as that in which a writ of subpoena *ad testificandum* or of subpoena *duces tecum* is now issued by His Majesty's Court of King's Bench at "Westminster"; and that every person disobeying any such writ so to be issued by the said President shall be considered as in contempt of the said Judicial Committee, and shall also be liable to such and the same penalties and consequences as if such writ had issued out of the said Court of King's Bench, and may be sued for such penalties in the said Court.

20 Time of appealing

And be it further enacted, that all appeals to His Majesty in Council shall be made within such times respectively within which the same may now be made, where such time shall be fixed by any law or usage, and where no such law or usage shall exist, then within such time as shall be ordered by His Majesty in Council; and that, subject to any right subsisting under any charter or constitution of any colony or plantation, it shall be lawful for His Majesty in Council to alter any usage as to the time of making appeals, and to make any order respecting the time of appealing to His Majesty in Council.

21 Decrees for courts abroad to be carried into effect as the King in Council shall direct. Act not to abridge powers of Privy Council

And be it further enacted, that the order or decree of His Majesty in Council on any appeal, from the order, sentence, or decree of any Court of Justice in the “East Indies”, or of any Colony, Plantation, or other His Majesty’s dominions abroad, shall be carried into effect in such manner, and subject to such limitations and conditions, as His Majesty in Council shall, on the recommendation of the said Judicial Committee, direct; and it shall be lawful for His Majesty in Council, on such recommendation, by order, to direct that such Court of Justice shall carry the same into effect accordingly, and thereupon such Court of Justice shall have the same powers of carrying into effect and enforcing such order or decree as are possessed by or are hereby given to His Majesty in Council: Provided always, that nothing in this Act contained shall impeach or abridge the powers, jurisdiction, or authority of His Majesty’s Privy Council as heretofore exercised by such Council, or in anywise alter the constitution or duties of the said Privy Council, except so far as the same are expressly altered by this Act, and for the purposes aforesaid.

23 Orders made on such appeals to have effect notwithstanding death of parties, etc

And be it enacted, that in any case where any order shall have been made on any such appeal as last aforesaid, the same shall have full force and effect notwithstanding the death of any of the parties interested therein; but that in all cases where any such appeal may be been withdrawn or discontinued, or any compromise made in respect of the matter in dispute, before the hearing thereof, then the determination of His Majesty in Council in respect of such appeal shall have no effect.

24 His Majesty empowered to make orders for regulating the mode, etc of such appeals

And be it further enacted, that it shall be lawful for His Majesty in Council from time to time to make any such rules and orders as may be thought fit for the regulating the mode, form, and

time of appeal to be made from the decisions of the said Courts of Sudder Dewanny Adawlut, or any other Courts of Judicature in “India” or elsewhere to the eastward of the “Cape of Good Hope” (from the decisions of which an appeal lies to His Majesty in Council), and in like manner from time to time to make such other regulations for the preventing delays in the making or hearing such appeals, and as to the expences attending the said appeals, and as to the amount or value of the property in respect of which any such appeal may be made.

28 Power of enforcing decrees. 2 & 3 Will 4 c 93

And be it enacted, that the said Judicial Committee shall have and enjoy in all respects such and the same power of punishing contempts and of compelling appearances, and that His Majesty in Council shall have and enjoy in all respects such and the same powers of enforcing judgments, decrees, and orders, as are now exercised by the High Court of Chancery or the Court of King’s Bench, (and both *in personam* and *in rem*,) or as are given to any Court Ecclesiastical by an Act of Parliament passed in a Session of Parliament of the second and third years of the Reign of His Present Majesty, intituled an Act for enforcing the process upon contempts in the Courts Ecclesiastical of England and Ireland; and that all such powers as are given to Courts Ecclesiastical, if of punishing contempts or of compelling appearances, shall be exercised in such and the same manner as the powers in and by such Act of Parliament given, and shall be of as much force and effect as if the same had been thereby expressly given to the said Committee or to His Majesty in Council.

Section 28 was amended by section 6 Judicial Committee Act 1843 (6 & 7 Vict, c 38) by repealing the powers given to the Judicial Committee and to His Majesty in Council to punish contempts.

Eprint notes**1 *General***

This is an eprint of the Judicial Committee Act 1833 (Imp) that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *About this eprint*

This eprint is not an official version of the legislation under section 18 of the Legislation Act 2012.

3 *Amendments incorporated in this eprint*

Supreme Court Act 2003 (2003 No 53): section 49(1)
