

## **BRITISH LAW ASCERTAINMENT ACT, 1859**

**22 of 1859**

**[13th August, 1859]**

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## **BRITISH LAW ASCERTAINMENT ACT, 1859**

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An Act to afford Facilities for the more certain Ascertainment of the Law administered In one Part of Her Majesty's Dominions when pleaded in the Courts of another Part thereof. [Preamble and enacting words: Repealed by 55 and 56 Vict., c. 19]

### **1. Courts in one part of Her Majesty's dominions may remit a case for the opinion in law of a Court in any other part thereof :-**

If in any action depending in any Court within her Majesty's dominions, it shall be the opinion of such Court, that it is necessary or expedient for the proper disposal of such action to ascertain the law applicable to the facts of the case as administered in any other part of Her Majesty's dominions on any point on which the law of such other part of Her Majesty's dominions is different from that in which the Court is situate, it shall be competent to the Court in which such action may depend to direct a case to be prepared setting forth the facts, as these may be ascertained by verdict of jury or other mode competent, or may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the Court for that purpose in the event of the parties

not agreeing. and upon such case being approved of by such Court or a Judge thereof, they shall settle the questions of law arising out of the same on which they desire to have the opinion of another Court, and shall pronounce an order remitting the same, together with the case, to the Court in such other part of Her Majesty's dominions, being one of the superior Courts thereof, whose opinion is desired upon the law administered by them as applicable to the facts set forth in such case, and desiring them to pronounce their opinion on the questions submitted to them in the terms of the Act; and it shall be competent to any of the parties to the action to present a petition to the Court whose opinion is to be obtained, praying such last mentioned Court to hear parties or their counsel, and to pronounce their opinion thereon in terms of this Act. or to pronounce their opinion without hearing parties or counsel; and the Court to which such petition shall be presented shall, if they think fit, appoint an early day for hearing parties or their counsel on such case, and shall thereafter pronounce their opinion upon the questions of law as administered by them which are submitted to them by the Court; and in order to their pronouncing such opinion they shall be entitled to take such further procedure thereupon as to them shall seem proper.

**2. Certified copies of opinion to be given :-**

Upon such opinion being pronounced, a copy thereof, certified by an officer of such Court, shall be given to each of the parties to the action by whom the same shall be required, and shall be deemed and held to contain a correct record of such opinion.

**3. Opinion to be applied by the Court making the remit, etc :-**

It shall be competent to any of the parties to the action, after having obtained such certified copy of such opinion, to lodge the same with an officer of the Court in which the action may be depending, who may have the official charge thereof, together with a notice of motion, setting forth that the party will, on a certain day named in such notice, move the Court to apply the opinion contained in such certified copy thereof to the facts set forth in the case hereinbefore specified, and the said Court shall thereupon apply such opinion to such facts, in the same manner as if the same had been pronounced by such Court itself upon a case reserved for opinion of the Court, or upon special verdict of a jury; or the said last-mentioned Court shall, if it thinks fit, when the said opinion has been obtained before trial, order such opinion to be

submitted to the jury with the other facts of the case as evidence, or conclusive evidence as the Court may think fit, of the foreign law therein stated, and the said opinion shall be so submitted to the jury.'

**4. Her Majesty in Council or house of Lords on appeal may adopt or reject opinion :-**

In the event of an appeal to Her Majesty in Council or the House of Lords in any such action, it shall be competent to bring under the review of Her Majesty in Council or of the House of Lords the opinion pronounced as aforesaid by any Court whose judgements are reviewable by Her Majesty in Council or by the House of Lords and Her Majesty in Council or that House may respectively adopt or reject such opinion of any court whose judgments are respectively by them as the same shall appear to them to be well founded or not in law.

**5. Interpretation of terms :-**

In the constructions of this Act, the word "action" shall include every judicial proceeding instituted in any Court. civil criminal or ecclesiastical; and the words "Superior Courts" shall include. in England the Superior Courts of law at Westminster the Lord Chancellor, the Lords Justices, the Master of the Rolls any Vice-Chancellor, the Judge of the Court of Admiralty, the Judge Ordinary of the Court for Divorce and Matrimonial Causes, and the Judge of the Court of Probate; in Scotland, the High Court of Justiciary, and the Court of Session acting by either of its divisions; in Ireland, the Superior Courts of Law at Dublin, the Master of the Rolls, and the Judge of the Admiralty Court; and in any other part of Her Majesty's dominions, the Superior Courts of Law or Equity therein.