

THE OATHS ACT, 1873

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THE OATHS ACT, 1873

ACT NO. X OF 1873

[8th April, 1873]

An Act to consolidate the law relating to Judicial Oaths, and for other purposes.

Preamble

WHEREAS it is expedient to consolidate the law relating to judicial oaths, affirmations and declarations, and to repeal the law relating to official oaths, affirmations and declarations;

It is hereby enacted as follows:—

I.— PRELIMINARY

Short title

1. This Act may be called the Oaths Act, 1873.

Local extent

It extends to the whole of ¹[Bangladesh].

2. [Repealed by the Repealing Act, 1873 (Act No. XII of 1873).]

Saving of certain oaths and affirmations

3. Nothing herein contained applies to proceedings before Courts Martial, or to oaths, affirmations or declarations prescribed by or under any law President's warrants or for the time being in force.

II.— AUTHORITY TO ADMINISTER OATHS AND AFFIRMATIONS

Authority to administer oaths and affirmations

4. The following Courts and persons are authorized to administer, by themselves or by an officer empowered by them in this behalf, oaths and affirmations in discharge of the duties or in exercise of the powers imposed or conferred upon them respectively by law:—

- (a) all Courts and persons having by law or consent of parties authority to receive evidence;
- (b) the Commanding Officer of any military, naval, or air force station or ship occupied by troops in the service of ²[the Republic]:

¹ The word "Bangladesh" was substituted, for the word "Pakistan" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words "the Republic" were substituted, for the word "Government" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Provided—

- (1) that the oath or affirmation be administered within the limits of the station, and
- (2) that the oath or affirmation be such as a Justice of the Peace is competent to administer in ¹[Bangladesh].

**III.— PERSONS BY WHOM OATHS OR AFFIRMATIONS
MUST BE MADE**

5. Oaths or affirmations shall be made by the following persons:—

- (a) all witnesses, that is to say, all persons who may lawfully be examined, or give, or be required to give, evidence by or before any Court or person having by law or consent of parties authority to examine such persons or to receive evidence;
- (b) interpreters of questions put to, and evidence given by, witnesses; and
- (c) jurors:

Oaths or affirmations to be made by-witnesses

interpreters

Jurors

Provided that where the witness is a child under twelve years of age, and the Court or person having authority to examine such witness is of opinion that, though he understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation, the foregoing provisions of this section and the provisions of section 6 shall not apply to such witness, but in any such case the absence of an oath or affirmation shall not render inadmissible any evidence given by such witness nor affect the obligation of the witness to state the truth.

Nothing herein contained shall render it lawful to administer, in a criminal proceeding, an oath or affirmation to the accused person, or necessary to administer to the official interpreter of any Court, after he has entered on the execution of the duties of his office, an oath or affirmation that he will faithfully discharge those duties.

¹ The word "Bangladesh" was substituted, for the word "Pakistan" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Affirmation by
Natives or by
persons
objecting to
oaths

6. Where the witness, interpreter or juror is a Hindu or ¹[Muslim].

or has an objection to making an oath,
he shall, instead of making an oath, make an affirmation.

In every other case the witness, interpreter or juror shall make an oath.

IV.—FORMS OF OATHS AND AFFIRMATIONS

Forms of oaths
and affirmations

7. All oaths and affirmations made under section 5 shall be administered according to such forms as the ²[Supreme Court] may from time to time prescribe.

And until any such forms are prescribed by the ²[Supreme Court], such oaths and affirmations shall be administered according to the forms now in use.

Power of Court
to tender certain
oaths

8. If any party to, or witness in, any judicial proceeding offers to give evidence on oath or solemn affirmation in any form common amongst, or held binding by, persons of the race or persuasion to which he belongs, and not repugnant to justice or decency, and not purporting to affect any third person, the Court may, if it thinks fit, notwithstanding anything hereinbefore contained, tender such oath or affirmation to him.

Court may ask
party or witness
whether he will
make oath
proposed by
opposite party

9. If any party to any judicial proceeding offers to be bound by any such oath or solemn affirmation as is mentioned in section 8, if such oath or affirmation is made by the other party to, or by any witness in, such proceeding, the Court may, if it thinks fit, ask such party or witness, or cause him to be asked, whether or not he will make the oath or affirmation:

Provided that no party or witness shall be compelled to attend personally in Court solely for the purpose of answering such question.

¹ The word "Muslim" was substituted, for the word "Muhammadan" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words "Supreme Court" were substituted, for the words "High Court" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

10. If such party or witness agrees to make such oath or affirmation, the Court may proceed to administer it, or, if it is of such a nature that it may be more conveniently made out of Court, the Court may issue a commission to any person to administer it, and authorise him to take the evidence of the person to be sworn or affirmed and return it to the Court.

Administration of oath if accepted

11. The evidence so given shall, as against the person who offered to be bound as aforesaid, be conclusive proof of the matter stated.

Evidence conclusive as against person offering to be bound

12. If the party or witness refuses to make the oath or solemn affirmation referred to in section 8, he shall not be compelled to make it, but the Court shall record, as part of the proceedings, the nature of the oath or affirmation proposed, the facts that he was asked whether he would make it, and that he refused it, together with any reason which he may assign for his refusal.

Procedure in case of refusal to make oath

V.— MISCELLANEOUS

13. No omission to take any oath or make any affirmation, no substitution of any one for any other of them, and no irregularity whatever, in the form in which any one of them is administered, shall invalidate any proceeding or render inadmissible any evidence whatever, in or in respect of which such omission, substitution or irregularity took place, or shall affect the obligation of a witness to state the truth.

Proceedings and evidence not invalidated by omission of oath or irregularity

14. Every person giving evidence on any subject before any Court or person hereby authorised to administer oaths and affirmations shall be bound to state the truth on such subject.

Persons giving evidence bound to state the truth

15. *[Repealed by the Repealing Act, 1938 (Act No. 1 of 1938).]*

16. Subject to the provisions of sections 3 and 5, no person appointed to any office shall, before entering on the execution of the duties of his office, be required to make any oath, or to make or subscribe any affirmation or declaration whatever.

Official oaths abolished

SCHEDULE. — *[Repealed by the Repealing Act, 1873, (Act No. XII of 1873).]*

