



THE OATH ACT, 1873



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THE OATHS ACT, 1873

¹ACT 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

1. Short title. This Act may be called the ²* Oaths Act, 1873.

Local extent. ³[It extends to the whole of Pakistan.]

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2. [*Repeal of enactments.*] *Rep. by the Repealing Act, 1873 (XII of 1873).*

⁵**[3. Saving of certain oaths and affirmations.-** Nothing herein contained applies to proceedings before Courts Martial, or to oaths, affirmations or declarations prescribed by or under any law ⁶[or] President's warrants ⁷* for the time being in force.]

II.—AUTHORITY TO ADMINISTER OATHS AND AFFIRMATIONS

4. Authority to administer oaths and affirmations.- 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;

¹For the Statement of Objects and Reasons, see Gazette of India, 1873, Pt' V, p. 17; for Proceedings in Council, see *ibid.*, 1872, Supplement, p. 889; *ibid.*, 1873, Supplement, pp. 3, 233, 235 to 246, 281,395, and 410; *ibid.*, 1873, Extra Supplement, pp. 1 to 8.

This Act has been declared to be in force in Balochistan by the British Balochistan Laws Regulation, 1913 (2 of 1913), s. 3.

This Act has been extended to the Leased Areas of Balochistan, see the Leased Areas (Laws) Order, 1950 (G.G.O. 3 of 1950); and applied in the Federated Areas of Balochistan, see Gazette of India, 1937, Part I, page 1499.

²The word "Indian" omitted by A. O., 1949, Sch.

³Para.2 of section 1, as amended by A. O., 1937, A. O.,1949 and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and III Sch., has been subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th Oct, 1955).

⁴The commencement clause was rep. by the Repealing Act, 1876 (12 of 1876).

⁵The original section 3 has successively been amended by the Indian Oaths (Amdt.) Act, 1919 (6 of 1919), s. 2, A.O., 1937, A.O., 1949, Sch., and A.O., 1961, Art. 2 and Sch. (with effect from the 23rd March, 1956), to read as above.

⁶Ins. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s.3 and IInd Sch.

⁷The word "or" omitted *ibid.*

¹[(b) the Commanding Officer of any military, naval or air force station or ship occupied by the Armed Forces of Pakistan, provided that the oath or affirmation is administered within the limits of the station or on the ship.]

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 ²[Pakistan].

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

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

(a) **witnesses** ; all witnesses, that is to say, all persons who may law fully 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; [and]³

(b) **interpreters** ; interpreters of questions put to, and evidence given by, witnesses [:]⁴

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Jurors. ⁶[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, ⁷[unless he is examined as a witness for the defence,] 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.

⁸[**6. Oath by a Muslim or by a non-Muslim who has no objection.**— (1) Where the witness or interpreter is a Muslim, he shall make an oath.

(2) Where the witness or interpreter is not a Muslim, he shall make an oath or, if he has an objection to making an oath, an affirmation.]

¹ Clause (b) as amended by Act 35 of 1934, s. 2 and Sch., Act 10 of 1927, s. 2 and Sch. I and A. O., 1961. Art. 2 (w.e.f. 14-10-1955), has been subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and IInd Sch.

² Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for “the Provinces and the Capital of the Federation” which had been subs. by A. O., 1949, Arts. 3(2) and 4, for “British India”.

³ The word “and” added by Ordinance 27 of 1981 s. 3 and IInd Sch.

⁴ Subs. *ibid.*, for “; and”

⁵ Clause (c) omitted *ibid.*,

⁶ Proviso ins. by the Indian Oaths (Amtd.) Act, 1939 (39 of 1939).

⁷ Ins. by Ord. 27 of 1981, s. 3 and 2nd Sch.

⁸ Subs. *ibid.*, for the original section 6.