

THE INDIAN OATHS ACT, 1873.

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ACT No. X OF 1873.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 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 Indian Oaths Act, 1873 :"

Local extent. It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the territories of Native Princes and States in alliance with Her Majesty;

Commencement. And it shall come into force on the first day of May 1873.

Repeal of enactments. 2. The enactments specified in the schedule hereto annexed are repealed to the extent mentioned in the third column thereof.

Saving of certain oaths and affirmations. 3. Nothing herein contained applies to proceedings before Courts Martial, or to oaths, affirmations or declarations prescribed by any law which, under the provisions of the Indian Councils' Act, 1861, the Governor General in Council has not power to repeal.

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

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 station occupied by troops in the service of Her Majesty: 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 British India.

III.—Persons by whom Oaths or Affirmations must be made.

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

Oaths or affirmations to be made by—
witnesses :

(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

interpreters :

(c.) jurors.

jurors.

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.

6. Where the witness, interpreter or juror is a Hindú or Muhammadan,

Affirmation by Natives or by persons objecting to oaths.

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

IV.—Forms of Oaths and Affirmations.

Forms of
oaths and
affirmations.

7. All oaths and affirmations made under section five shall be administered according to such forms as the High Court may from time to time prescribe.

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

Explanation.—As regards oaths and affirmations administered in the Court of the Recorder of Rangoon and the Court of Small Causes of Rangoon, the Recorder of Rangoon shall be deemed to be the High Court within the meaning of this section.

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 eight, 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.

Administra-
tion of oath
if accepted.

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 authorize him to take the evidence of the person to be sworn or affirmed and return it to the Court.

11. The

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 eight, 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 authorized to administer oaths and affirmations shall be bound to state the truth on such subject.

Persons giving evidence bound to state the truth.

15. The Indian Penal Code, sections 178 and 181, shall be construed as if, after the word "oath," the words "or affirmation" were inserted.

Amendment of Penal Code, sections 178 and 181.

16. Subject to the provisions of sections three and five, 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.

(See section 2.)

PART I.—STATUTES.

Year and chapter.	Title.	Extent of repeal.
9 Geo. IV, c. 74	An Act for improving the Administration of Criminal Justice in the <i>East Indies</i> .	Sections thirty-six and thirty-seven.
3 & 4 Wm. IV, c. 49.	An Act to allow Quakers and Moravians to make Affirmation in all cases where an Oath is or shall be required.	The whole Act, so far as it applies to British India.
3 & 4 Wm. IV, c. 82.	An Act to allow the People called Separatists to make a solemn Affirmation and Declaration instead of an Oath.	The whole Act, so far as it applies to British India.
5 & 6 Wm. IV, c. 62.	An Act to repeal an Act of the present Session of Parliament, intituled "An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof; and for the more entire Suppression of voluntary and extrajudicial Oaths and Affidavits;" and to make other Provisions for the Abolition of unnecessary Oaths.	The whole Act, so far as it applies to British India.
1 & 2 Vic., c. 77	An Act for permitting Affirmation to be made instead of an Oath in certain cases.	The whole Act, so far as it applies to British India.

PART II.—ACTS.

Number and year.	Subject or title.	Extent of repeal.
IX of 1836	Commanding Officer's power to administer Oaths.	The whole.
XXI of 1837	Office Oaths and Declarations ...	So much as has not been repealed.
V of 1840	An Act concerning the Oaths and Declarations of Hindoos and Mahomedans.	So much as has not been repealed.
XV of 1843	An Act for the more extensive employment of Uncovenanted Agency in the Judicial Department.	Section two.
XV of 1852	An Act to amend the Law of Evidence ...	Section twelve.

Number and year.	Title.	Extent of repeal.
XII of 1856 ...	An Act to amend the Law respecting the employment of Ameens by the Civil Courts in the Presidency of Fort William.	Section four.
VII of 1857 ...	An Act for the more extensive employment of Uncovenanted Agency in the Revenue and Judicial Departments in the Presidency of Fort St. George.	Section two.
XII of 1859 ...	An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty.	Sections twelve and fifteen.
XVIII of 1863 ...	An Act to make provision for the speedy and efficient disposal of the business now pending in the Office of the Master of the High Court of Judicature at Fort William in Bengal, and to provide for the abolition of the Oaths now administered to Hindoos and Mahomedans in the said Court, and to amend the Code of Civil Procedure in respect of process issued out of the said Court in the exercise of its Original Civil Jurisdiction.	Section nine.
IV of 1866 ...	An Act to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.	Section five.
II of 1869 ...	An Act for the appointment of Justices of the Peace.	Sections seven and eight.
IV of 1871 ...	An Act to consolidate and amend the Laws relating to Coroners.	Section seven, and, in section thirty-eight, the words "and such deputy shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of his office."
VI of 1871 ...	An Act to consolidate and amend the law relating to the District and Subordinate Civil Courts in Bengal.	Section thirteen.
VI of 1872 ...	An Act to amend the Law relating to Oaths and Affirmations.	The whole.
XVIII of 1872...	An Act to amend the Indian Evidence Act, 1872.	Section twelve.
Bombay Act VI of 1866.	An Act to amend the Law relating to certain Declarations of Office in the Bombay Presidency.	The whole.

PART III.—REGULATIONS.

Number and year.	Title.	Extent of repeal.
Bengal Regulation IV of 1793.	A Regulation for receiving, trying, and deciding Suits or Complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs, and in the Cities of Patna, Dacca, and Moorshedabad.	So much of section six as has not been repealed.
Bengal Regulation III of 1803.	A Regulation for receiving, trying, and deciding Suits or Complaints, declared cognizable in the Courts of Adawlut established in the several Zillahs in the Provinces ceded by the Nawaub Vizier to the Honourable the English East India Company.	So much of section seven as has not been repealed, and section eight.
Bengal Regulation IX of 1833.	A Regulation to modify certain Portions of Regulation VII of 1822, and Regulation IV of 1828; to provide for the more speedy and satisfactory Decision of Judicial Questions cognizable by Officers of Revenue employed in making Settlements under the above Regulations; for enforcing the Production of the Village Accounts; for the more extensive Employment of Native Agency in the Revenue Department; and to declare the Intent of Section V, Regulation VII of 1822, touching Claims to Malikana.	Section nineteen.
Madras Regulation I of 1803.	A Regulation for defining the Duties of the Board of Revenue, and for determining the Extent of the Powers vested in the Board of Revenue.	Sections two and three.
Madras Regulation II of 1803.	A Regulation for describing and determining the Conduct to be observed by Collectors in certain cases.	Sections three and four.
Madras Regulation XIV of 1816.	A Regulation for amending and modifying the Rules which have been passed regarding the Office of Vakeel or Native Pleader in the Courts of Civil Judicature.	Section five.
Bombay Regulation VI of 1799.*	A Regulation for enacting the existing Rules for the Collection of the Bombay Customs.	Section two, clause two, from and including the words "Previous to" down to the end of that clause.
Bombay Regulation II of 1827.	A Regulation for defining the constitution of Courts of Civil Justice, and the powers and duties of the Judges and officers thereof.	Sections four and fifteen. In section eleven, clause one, the words "who previously to entering on the duties of their offices shall take and subscribe in open Court the oath contained in Appendix B". Appendix B.

* Printed at p. 246 of Clarke's edition of the Bombay Regulations, London, 1851.

Number and year.	Title.	Extent of repeal.
Bombay Regulation XII of 1827.	A Regulation for the establishment of a system of Police throughout the Zillahs subordinate to Bombay, for providing Rules for its Administration, and for defining the Duties and Powers of all Police Authorities and Servants.	So much of section three, clause five, as has not been repealed.
Bombay Regulation XIII of 1827.	A Regulation for defining the Constitution of Courts of Criminal Justice, and the Functions and Proceedings thereof.	So much of section thirty-six, clause two, as has not been repealed.
Bombay Regulation XVI of 1827.	A Regulation defining the Duties of the Collector, and his Powers in regard to Subordinate Revenue Officers, and providing Rules for the guidance of Land Revenue Officers in general, throughout the Territories subordinate to Bombay	Section three, and so much of section five as relates to taking oaths.
Bombay Regulation XIX of 1827.	A Regulation for the Presidency, prescribing Rules for the Assessment and Collection of the Land Revenue, and for collecting Taxes on Shops and Stalls, on beating the Battakee or making Proclamation by the Crier, on Country Music, on Wedding Sheds and Places of Public Amusement, on Houses, on Carriages, and on Horses; for causing Individuals who may sell or transfer Houses or Tenements subject to quit or ground rents to give Notice of the same to the Collector; and also for levying Fees in the Court of Petty Sessions and Police Offices.	Section one, clause two; and section six from and including the words "and shall" down to the end. Appendix A.
Bombay Regulation XVIII of 1830.	A Regulation providing for the appointment of a Joint Judge within the Zillah of Poona.	Section two.