

OATHS.

Cap. 89

To make provision for the taking of oaths and affirmations.

[1ST DECEMBER, 1951.]

Short title.

1. This Ordinance may be cited as the Oaths Ordinance.

Saving of certain proceedings.

2. Nothing herein applies to proceedings before Courts Martial.

Authority to administer oaths.

3. All courts and persons having by law or consent of parties authority to receive evidence are authorised 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 conferred upon them respectively by law.

Oaths to be made by witnesses.

4. (1) Subject to section 5, oaths shall be taken by the following persons –
 - (a) all persons who may be lawfully 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;
 - (c) translators; and
 - (d) assessors.

(2) An official interpreter or translator of any court shall take an oath before entering on the duties of his office and nothing contained in this section shall make it necessary for such an interpreter or translator after he has taken an oath under this Ordinance to take any further oath that he will faithfully discharge those duties in any particular case or matter.

Exemptions.

5. (1) Where the person required by law to take an oath –
- (a) is a Hindu or Muslim or of some other religion according to which oaths are not of binding force; or
 - (b) has a conscientious objection to taking an oath;

he may, instead of taking an oath, make an affirmation.

(2) Any person who by reason of immature age ought not in the opinion of the court to be admitted to give evidence on oath or affirmation shall be admitted to give evidence after being cautioned by the court to speak the truth, the whole truth, and nothing but the truth.

Form of oaths and affirmations.

6. Oaths and affirmations taken or made under sections 3 and 4 shall be administered according to such forms and with such formalities as may be prescribed.

Power of court to tender certain oaths.

7. 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, cause such oath or affirmation to be tendered to him.

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

8. (1) If any party to any judicial proceeding of a civil nature offers to be bound by any such oath or solemn affirmation as is mentioned in section 7 if such oath or affirmation is taken or 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 take such oath or make such affirmation:

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

Administration of oath if accepted.

(2) If such party or witness agrees to take such oath or make such affirmation the court may administer it, or, if more convenient, may authorize any person to administer it and to take the evidence of the person to be sworn or affirmed and return it to the court.

Evidence conclusive against party offering to be bound.

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

Procedure in case of refusal.

(4) If the party or witness refuses to take such oath or make such affirmation he shall not be compelled to do so, nor be asked his reason for refusal, but the court shall record as part of the proceedings the nature of the oath or affirmation proposed, the fact that he was asked whether he would take or make it and that he refused it, together with any reason which he may voluntarily assign for his refusal.

Proceedings and evidence not to be invalidated by omission of oath or irregularity.

9. 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.

Persons giving evidence bound to state the truth.

10. Every person giving evidence on any subject before any court or person hereby authorized to administer oaths or affirmations shall be bound to state the truth on such subject.

Summary punishment for perjury in open court.

11. (1) If any person giving evidence on any subject in open court in any judicial proceeding, whether civil or criminal, gives, in the opinion of the court before which the judicial proceeding is held, false evidence within the meaning of section 191 of the Penal Code [3 of 1959.], the court, if such court is the High Court or the Federal Court, may summarily commit such witness as for a contempt of the court to imprisonment for three months or may fine such witness in any sum not exceeding three hundred dollars, or if such court is a magistrate of the first class, may fine such witness in any sum not exceeding one hundred dollars.

(2) A court of a magistrate of the first class shall not summarily punish a witness under subsection (1) unless it has first brought to his notice the substance of the false evidence and called upon him to show cause why he should not be summarily punished for his contempt of the court in giving false evidence.

The substance of the statement by the court and any reply or explanation given by the witness shall be recorded by the court.

(3) A person who has undergone any sentence of imprisonment or paid any fine imposed under this section shall not be liable to be punished again for the same offence.

(4) Whenever the power given by this section is exercised by a court other than the High Court or Federal Court, the person imposing the fine shall forthwith transmit to the Director of Public Prosecutions a full report of the action taken and of the reasons for it, together with a transcript of the evidence taken in the case.

(5) In lieu of exercising the power given by this section, the court may, if it thinks fit, summarily commit the offender for trial before any court having jurisdiction, and shall in that case bind over all persons whose evidence it considers material to appear and give evidence at such trial.

(6) Nothing in this section shall be construed as derogating from or limiting the powers and jurisdiction of the Federal Court or the High Court or of the Judges thereof.

Rules.

*12. Rules of Court may be made under section 16 of the Courts of Judicature Act, 1964 [7 of 1964.], for carrying into effect the provisions of this Ordinance and for prescribing the form of oaths and affirmations.

* See Oaths Rules, 1958 (G.N.S. 131/58).