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(X of 1873)

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SCHEDULE

TEXT

THE OATHS ACT, 1873

(X of 1873)

[8" 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 oath, 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 “[* * * *] Oaths Act, 1873.

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

Tr * * * * * * * * *]

2. Repeal of enactments [Repealed by The Repealing Act, 1873 (XII of 1873).]

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 [or] President’s warrants [* * *] 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;

‘Omitted the word “Indian” by G.G.O. of 1949, Sch.

Substituted by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960) w.e.f 14.10.1955, s. 3 and 2nd Schedule; and published in Gazette (Extraordinary), dated 9.6.1960.

Repealed by the Repealing Act, 1876 (XII of 1876).

‘Substituted by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960) w.e.f 14.10.1955, s. 3 and 2nd Schedule; and published in Gazette (Extraordinary), dated 9.6.1960.

SI inserted by the Federal laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981) w.e.f 8.6.1981 s.3 and 2TM Schedule.p.386.

°Omitted by the Federal laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981) w.e.f 8.6.1981 s.3 and 2TM Schedule.p.386.

"[(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 administrated within the limits of the station or on the

ship.]

**II.-PERSONS BY WHOM OATHS OR
AFFIRMATIONS MUST BE MADE**

5. Oaths or affirmations to be made by witnesses; interpreters; Jurors.—

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 of person having by law or consent of parties authority to examine such persons or to receive evidence; "[and]

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

"I(c) * * * * * * * * *]

[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 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, "[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.

"[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.]

IV. — FORMS OF OATHS AND AFFIRMATIONS

"Substituted by the Federal laws (Revision and Declaration) Ordinance,1981(XXVII of 1981) w.e.f 8.6.1981 s.3 and 2" Schedule p.386.

Added by the Federal laws (Revision and Declaration) Ordinance,1981(XXVII of 1981) w.e.f 8.6.1981 s.3 and 2" Schedule p.387.

°Substituted by the Federal laws (Revision and Declaration) Ordinance,1981(XXVII of 1981) w.e.f 8.6.1981 s.3 and 2TM Schedule p.387.

Omitted by the Federal laws (Revision and Declaration) Ordinance,1981(XXVII of 1981) w.e.f 8.6.1981 s.3 and 2" Schedule p.387.

"inserted by Indian Oaths (Amendment) Act , 1939 (XXXIX of 1939)

"Inserted by the Federal laws (Revision and Declaration) Ordinance,1981(XXVII of 1981) w.e.f 8.6.1981 s.3 and 2" Schedule p.387.

"Substituted by the Federal laws (Revision and Declaration) Ordinance,1981(XXVII of 1981) w.e.f 8.6.1981 s.3 and 2" Schedule p.387.

7. Forms of oaths and affirmations.— All oaths and affirmations made under section 5 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.— *

8. Power of Court to tender certain oaths.— 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.

9. Court may ask party or witness whether he will make oath proposed by opposite Party.— 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.

10. Administration of oath if accepted— 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. Evidence conclusive as against person offering to be bound.— The evidence so given shall, as against the person who offered to be bound as aforesaid, be conclusive proof of the matter stated.

12. Procedure in case of refusal to make Oath.— 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 purposed, 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.

V.— MISCELLANEOUS

13. Proceeding and evidence not invalidated by omission of oath or irregularity— 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.

14. Persons giving evidence bound to state the truth— 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.

15. [Amendment of Penal Code, Sections 178 and 181].— Repealed by the Repealing Act, 1938 (I of 1938), s.2 and schedule.

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

SCHEDULE

[Repealed by the Repealing Act, 1873(XII of 1873).]