

Queensland



OATHS ACT 1867

**Reprinted as in force on 14 March 1997
(includes amendments up to Act No. 79 of 1996)**

Reprint No. 2C

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Information about this reprint

This Act is reprinted as at 14 March 1997. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



OATHS ACT 1867

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OATHS ACT 1867

[as amended by all amendments that commenced on or before 14 March 1997]

An Act to consolidate and amend the laws relating to oaths

PART 1—PRELIMINARY

Short title

1A. This Act may be cited as the *Oaths Act 1867*.

Definitions

1B. In this Act—

“**court of justice**” includes a person authorised to administer oaths to witnesses.

“**presiding Judge**” includes a person authorised to administer oaths to witnesses.

“**State**” includes a Territory.

PART 2—OATHS OF OFFICE AND ALLEGIANCE

Oath substituted for the oaths and declaration now prescribed by law

1. In every case where but for the passing of this Act it would be necessary for any person to take the oaths commonly called the oaths of allegiance supremacy and abjuration or any of them or the oath prescribed by the Act of Parliament commonly called the *Roman Catholic Relief*

Resources Act 1989 shall take the oath of allegiance and also the oath of office hereinbefore mentioned with the necessary adaptations.

Name of the Sovereign

4. In case of the demise of Her Majesty (whom may God long preserve) the name of Her Majesty's successor for the time being shall be substituted in the form of oath instead of the name of Her Majesty.

Affirmation in lieu of oath

5. Every person who now is or shall hereafter be by law entitled to make affirmation in lieu of an oath may make affirmation in the form hereinbefore prescribed with the words 'solemnly and sincerely promise and affirm' substituted for the words 'sincerely promise and swear'.

Form of oath of allegiance

5A.(1) On and after the coming into operation of this Act and without prejudice to the provisions of any Act requiring the taking of a further oath of allegiance upon the demise of Her Majesty, there shall be substituted for the oath of allegiance prescribed by section 1, for the oath of allegiance prescribed by section 4 of the *Constitution Act 1867*, and for any oath of allegiance prescribed by or under any other Act an oath of allegiance in the following form—

I, _____, do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth the Second, as lawful Sovereign of the United Kingdom, Australia, and her other Realms and Territories, and to Her Heirs and Successors, according to law.

So Help Me God!

(2) In the case of the demise of Her Majesty (whom may God long preserve) the name of Her Majesty's successor according to law for the time being shall be substituted in the form of oath of allegiance prescribed by subsection (1) instead of the name of Her Majesty.

PART 3—DECLARATIONS SUBSTITUTED FOR CERTAIN OFFICIAL OATHS

Declarations substituted for oaths and affirmations

6. In any case whereby any statute law or ordinance made or to be made relating to any of the public revenue of the State or any of the public offices or public departments or by any official regulation in any department any oath solemn affirmation or affidavit might but for the passing of this Act be required to be taken or made by any person on the doing of any act matter or thing or for the purpose of verifying any book entry or return or for any other purpose whatsoever it shall be lawful for the Governor in Council of the said State if the Governor in Council shall so think fit to substitute a declaration to the same effect as the oath solemn affirmation or affidavit which might but for the passing of this Act be required to be taken or made and the person who might under the Act or Acts imposing the same be required to take or make such oath solemn affirmation or affidavit shall in the presence of the officer or person empowered by such Act or Acts to administer such oath solemn affirmation or affidavit make and subscribe such declaration and every such officer or person is hereby empowered and required to administer the same accordingly.

Act not to extend to oath of allegiance

7. However, nothing in section 6 contained shall extend or apply to the oath of allegiance in any case in which the same now is or may be required to be taken by any person who may be appointed to any office but such oath of allegiance shall continue to be required and shall be administered and taken as well and in the same manner as if this Act had not been passed.

Nor to oaths in judicial proceeding

8. In addition, nothing in section 6 contained shall extend or apply to any oath solemn affirmation or affidavit which now is or hereafter may be made or taken or be required to be made or taken in any judicial proceeding in any court of justice or in any proceeding for or by way of summary conviction before any justice or justices of the peace but all such oaths affirmations and

affidavits shall continue to be required and to be administered taken and made as well and in the same manner as if this Act had not been passed.

Such substitution to be notified in gazette

9. When the Governor in Council shall in any such case as aforesaid have substituted a declaration in lieu of an oath solemn affirmation or affidavit the same shall be notified in the gazette and from and after the expiration of 21 days next following the day of the date of the gazette wherein such notification shall have been first published the provisions of this Act shall extend and apply to each and every case office or department specified in such notification.

Oaths or affirmations not to be made or taken thereafter

10. After the expiration of the said 21 days it shall not be lawful for any officer or other person to administer or cause to be administered or receive or cause to be received any oath solemn affirmation or affidavit in lieu of which such declaration as aforesaid shall have been directed by the said Governor in Council to be substituted.

PART 4—STATUTORY DECLARATIONS

Who may take declarations

13.(1) A person's declaration may be taken by—

- (a) a justice, commissioner for declarations or notary public under the law of the State, the Commonwealth or another State; or
- (b) a lawyer; or
- (c) a conveyancer, or another person authorised to administer an oath, under the law of the State, the Commonwealth or another State.

(2) This section applies to a declaration taken for Queensland law, whether it is taken inside or outside Queensland (including outside

Australia).

(3) In this section—

“**taken**” includes received.

Form of declaration

14. In all cases where a declaration in lieu of an oath shall have been substituted by this Act or by virtue of any power or authority hereby given or where a declaration is directed or authorised to be made and subscribed under the authority of this Act or of any power hereby given although the same be not substituted in lieu of an oath heretofore legally taken such declaration unless otherwise directed by the powers hereby given shall be in the following form—

‘I A.B. do solemnly and sincerely declare that [*let the person declare the facts*] and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.’.

Fees payable

15. Whenever any declaration shall be made and subscribed by any person or persons under or in pursuance of the provisions of this Act or any of them all and every such fees or fee as would have been due and payable on the taking or making any legal oath solemn affirmation or affidavit shall be in like manner due and payable upon making and subscribing such declaration.

PART 5—SOLEMN AFFIRMATIONS AND DECLARATIONS

Affirmation instead of oath in certain cases

17.(1) If any person called as a witness or required or desired to make an oath affidavit or deposition objects to being sworn it shall be lawful for the court or Judge or other presiding officer or person qualified to administer

oaths or to take affidavits or depositions upon being satisfied of the sincerity of such objection to permit such person instead of being sworn to make his or her solemn affirmation in the words following videlicet—

‘I A.B. do solemnly sincerely and truly affirm and declare that the taking of any oath is objectionable to me and I do also solemnly sincerely and truly affirm and declare etc.’.

(2) Which solemn affirmation shall be of the same force and effect as if such person had taken an oath in the usual form and the like provisions shall apply also to every person required to be sworn as a juror.

(3) The objection to being sworn may be based on—

- (a) an absence of religious beliefs;
- (b) conscientious grounds;
- (c) such other grounds as are considered reasonable by the court or Judge or other presiding officer or person qualified to administer oaths or to take affidavits or depositions.

Quakers and Moravians permitted to make a solemn affirmation or declaration instead of oath

18.(1) Every person being or having been of the persuasion of the people called Quakers and every person being or having been a Moravian shall be permitted to make his or her solemn affirmation or declaration instead of taking an oath in all places and for all purposes whatsoever where an oath is or shall be required either by the common law or by an Act of Parliament already made or hereafter to be made which said affirmation or declaration shall be of the same force and effect as if he or she had taken an oath in the usual form.

(2) However, every such affirmation or declaration shall be in the words following that is to say—

‘I A.B. being [*or having been as the case may be*] one of the people called Quakers [*or one of the persuasion of the people called Quakers or of the united brethren called Moravians as the case may be*] do solemnly sincerely and truly affirm and declare.’.

Separatists instead of an oath may make the following affirmation

19.(1) Every person for the time being belonging to the sect called separatists who shall be required upon any lawful occasion to take an oath in any case where by law an oath is or may be required shall instead of the usual form be permitted to make his or her solemn affirmation or declaration in these words following videlicet—

‘I A.B. do in the presence of Almighty God solemnly sincerely and truly affirm and declare that I am a member of the religious sect called separatists and that the taking of any oath is contrary to my religious belief as well as essentially opposed to the tenets of that sect and I do also in the same solemn manner affirm and declare.’.

(2) Which said solemn affirmation or declaration shall be adjudged and taken and is hereby enacted and declared to be of the same force and effect to all intents and purposes in all courts of justice and other places whatsoever where by law an oath is or may be required as if such separatists had taken an oath in the usual form.

PART 6—OTHER OATHS**Swearing of jurors in civil trials**

21. Jurors may be sworn for civil trials in open court in the following form or in a form to the same effect—

You will conscientiously try the issues on which your decision is required and decide them according to the evidence. You will also not disclose anything about the jury’s deliberations other than as allowed or required by law. So help you God.

Swearing of jurors in criminal trials

22. Jurors may be sworn for criminal trials in open court in the following form or in a form to the same effect—

You will conscientiously try the charges against the defendant (or defendants) [*or the issues on which your decision is required] and decide

them according to the evidence. You will also not disclose anything about the jury's deliberations other than as allowed or required by law. So help you God.

Witnesses' oath in civil causes

23. Witnesses may be sworn in civil causes in open court in the following form or to the like effect—

'The evidence which you shall give to the court [and jury sworn] touching the matters in question between the parties shall be the truth the whole truth and nothing but the truth So help you God.'

Witnesses' oath in proceedings not otherwise specified

23A. Witnesses may be sworn in any judicial or other proceedings in respect of which a form of oath to be sworn therein is not provided in this Act in the following form or to the like effect—

'The evidence which you shall give to the court [*or* in these proceedings] shall be the truth the whole truth and nothing but the truth So help you God.'

Voire dire

24. Any person may be sworn on the *voire dire* in the following form or to the like effect—

'You shall true answer make to all such questions as the court shall demand of you So help you God.'

Witnesses' oath on criminal trials

25. Witnesses may be sworn on criminal trials in open court in the following form or to the like effect—

'The evidence which you shall give to the court and jury sworn between our Sovereign Lady the Queen and the prisoner [*or* prisoners *or* defendant] at the bar [*or* the defendant] shall be the truth the whole truth and nothing but the truth So help you God.'

Interpreters' oath in civil causes

26. Interpreters may be sworn in civil causes in open court in the following form or to the like effect—

‘You swear that you understand the language of the witness [*or* plaintiff *or* defendant] and are able to interpret between the witness [*or* plaintiff *or* defendant] and the court and jury and all persons conversant with the English language So help you God.’

‘You shall well and truly interpret and true explanation make between the witness [*or* plaintiff *or* defendant] and the court and jury and all persons conversant with the English language to the best of your knowledge skill and ability and the evidence you shall give to the court and jury sworn touching the matters in question shall be the truth the whole truth and nothing but the truth So help you God.’

Interpreters' oath in civil causes on the voire dire

27. Interpreters may be sworn in civil causes in open court to interpret on the voire dire in the following form or to the like effect—

‘You swear that you understand the language of the witness [*or* plaintiff *or* defendant] and are able to interpret between the witness [*or* plaintiff *or* defendant] and the court and all persons conversant with the English language So help you God.’

‘You shall well and truly interpret and true explanation make between the witness [*or* plaintiff *or* defendant] and the court and all persons conversant with the English language to the best of your knowledge skill and ability and you shall true answer make to all such questions as the court shall demand of you So help you God.’

Interpreters' oath for the arraignment—to interpret between prisoner and others

28.(1) Interpreters may be sworn in open court for the purpose of conducting the arraignment of any person accused in the following form or to the like effect—

‘You swear that you understand the language of the prisoner at the bar and are able to interpret between the prisoner and the court So help you

God.’

‘You shall well and truly interpret and true explanation make between the prisoner at the bar and the court to the best of your knowledge skill and ability and you shall true answer make to all such questions as the court shall demand of you So help you God.’.

(2) And whenever on the trial of such person it may be necessary to examine a witness who does not speak the English language on the *voire dire* the interpreter’s oath may be in the form given in section 27 or to the like effect retaining the word ‘witness’ throughout.

Interpreter’s oath to interpret between a prisoner, defendant or witness and others

29.(1) Interpreters may be sworn for the purposes of a criminal trial in open court in the following form or to the like effect—

NON-ENGLISH SPEAKING PRISONER

‘You swear that you understand the language of the prisoner [*or prisoners or defendant*] at the bar [*or the defendant*] and are able to interpret between the prisoner [*or prisoners or defendant*] and the court and jury and between the prisoner [*or prisoners or defendant*] and all persons conversant with the English language So help you God.’

‘You shall well and truly interpret and true explanation make between the prisoner [*or prisoners or defendant*] at the bar [*or the defendant*] and the court and jury and between the prisoner [*or prisoners or defendant*] and all persons conversant with the English language to the best of your knowledge skill and ability and the evidence which you shall give to the court and jury sworn between our Sovereign Lady the Queen and the prisoner [*or prisoners*] at the bar shall be the truth the whole truth and nothing but the truth So help you God.’.

NON-ENGLISH SPEAKING WITNESS

‘You swear that you understand the language of the witness and are able to interpret between the witness and the court and jury and the prisoner and all persons conversant with the English language.’

‘You shall well and truly interpret and true explanation make between the witness the court and jury and the prisoner and all persons conversant with the English language and the evidence which you shall give to the

court and jury sworn between our Sovereign Lady the Queen and the prisoner at the bar shall be the truth the whole truth and nothing but the truth So help you God.’.

(2) However, when the witness and the prisoner do not speak English fluently but speak different languages and the interpreter is unable to interpret to the prisoner the reference to the prisoner shall be omitted and an additional interpreter sworn to interpret the English interpretation of the first interpreter to the prisoner.

Where witness and prisoner are of different languages—first interpreter’s oaths

30.(1) When on any criminal trial a witness and the prisoner do not speak English fluently but speak different languages and an interpreter can be found conversant with the languages of the prisoner and the witness and able to interpret between them and a second interpreter can be found conversant with the English and with any language with which the first interpreter is conversant and able to interpret from the lastnamed language into English the first interpreter may be sworn through the second interpreter in open court in the following form or to the like effect—

‘You swear that you understand the several languages of the witness and the prisoner and are able to interpret between them So help you God.’

‘You shall well and truly interpret and true explanation make between the witness and the prisoner at the bar and the prisoner at the bar and the witness and between them and each of them and the court and jury and all interpreters witnesses and persons whatsoever to the best of your knowledge skill and ability and the evidence you shall give to the court and jury sworn between our Sovereign Lady the Queen and the prisoner at the bar shall be the truth the whole truth and nothing but the truth So help you God.’.

(2) And whatever be the number of interpreters necessary before the statements of the prisoner and the witness can be interpreted into one and the same language and into English the same forms of oath shall be administered *mutatis mutandis* to each interpreter in the succession and the like provision shall apply in civil causes as far as may be.

Oath of bailiff in charge of jury

31. Bailiffs may be sworn to take charge of juries in the following form or in a form to the same effect—

You swear that you will not communicate with the jury nor allow anyone else to communicate with the jury unless the communication is authorised by the court, or is otherwise authorised by law. So help you God.

Oath of police officer assisting bailiff in charge of jury

31A.(1) Police officers may be sworn to assist bailiffs in charge of juries in the following form or to the like effect—

‘You swear that you will assist the bailiff in charge of this jury in keeping them in some safe and private place and allow no-one but the bailiff to communicate with them and not communicate with them yourself without leave of the court So help you God.’.

(2) A police officer who is about to assume the duty another police officer has sworn (in accordance with subsection (1)) to carry out in respect of a jury may be sworn to carry out that duty by the bailiff in charge of the jury in the form prescribed by that subsection or to the like effect.

PART 7—MISCELLANEOUS**General provision**

32. Nothing herein contained shall invalidate any oath sworn or taken in a sufficient and lawful form and any oath of allegiance or office sworn before a Judge of the Supreme Court may be certified or recorded by the associate or Judge’s clerk.

Special provision as to oaths

33.(1) Any person taking any oath on the Bible or the New Testament or the Old Testament, for any purpose whatsoever, whether in judicial proceedings or otherwise, shall, if physically capable of doing so, hold a

copy of a Bible or Testament in the person's hand, but it shall not be necessary for the person to kiss such copy by way of assent.

(2) The officer administering the oath may repeat the appropriate form of adjuration, and the person taking the oath shall thereupon, while holding in the person's hand a copy of the Bible or Testament, indicate the person's assent to the oath so administered by uttering the words 'So help me, God'; or the person taking the oath may, while holding in the person's hand a copy of the Bible or Testament, repeat the words of the oath as prescribed or allowed by law.

Mode of binding interpreters to interpreting certain cases

35.(1) If in any criminal proceeding in any court of justice it shall be necessary to call an interpreter whether for the purpose of the arraignment of any person accused or for the interpretation of the evidence of witnesses and it shall appear to the presiding Judge that the person called as interpreter understands the language of the accused or other person between whom and the court the interpreter is called to interpret sufficiently to be able to make true explanation of the evidence and other proceedings but that such interpreter can not for any cause be sworn in the form and manner prescribed by the *Oaths Act 1867* in that behalf it shall be the duty of the presiding Judge to declare in what manner such interpreter shall be sworn or otherwise bound to make true declaration.

(2) And it shall in such case be the further duty of the presiding Judge to ascertain that true explanation of the evidence and all other proceedings is made to the accused person.

(3) And if the presiding Judge shall be satisfied that such true explanation is so made the trial and any verdict given thereat shall be as valid as if the interpreter had been sworn in the ordinary manner.

Interruption of trial by reason of failure of interpreters not to entitle to acquittal

36. If on any trial for a criminal offence it shall appear to the presiding Judge after the accused person shall have been given in charge to the jury that true explanation of the evidence can not by reason of the incompetence of any interpreter be made to such accused person the person shall not by

reason thereof be entitled to be acquitted but it shall be the duty of the presiding Judge to discharge the jury from giving any verdict and the accused person shall be liable to be again tried as if such first trial had not been commenced.

Mode of taking evidence of persons objecting or incompetent to take an oath

37. If any person tendered for the purpose of giving evidence in respect of any civil or criminal proceeding before a court of justice, or any officer thereof, or on any commission issued out of the court, objects to take an oath, or by reason of any defect of religious knowledge or belief or other cause, appears incapable of comprehending the nature of an oath, it shall be the duty of the Judge or person authorised to administer the oath, if satisfied that the taking of an oath would have no binding effect on the conscience of such person and that the person understands that he or she will be liable to punishment if the evidence is untruthful, to declare in what manner the evidence of such person shall be taken, and such evidence so taken in such manner as aforesaid shall be valid as if an oath had been administered in the ordinary manner.

Interpreters

38. Section 37 shall, *mutatis mutandis*, extend and apply to interpreters called to interpret in any civil or criminal proceeding in any court of justice.

Mode of taking evidence of witness who can not be sworn in manner required by witness's religion—schedule

39. Whenever in the course of any civil or criminal proceeding in any court of justice a person is tendered as a witness, and it is found to be impracticable, at the time and place when and where the person is so tendered, to administer to the person an oath in the form and manner required by the person's religion to make it binding on the person's conscience, it shall be the duty of the presiding Judge, if satisfied of the fact, to require such person to make a solemn affirmation in the form of the schedule, and upon such person making such solemn affirmation the

person's evidence shall be taken, and the evidence so taken shall be as valid as if an oath had been administered in the ordinary manner.

Interpreter

40. The provisions of section 39 shall, *mutatis mutandis*, apply to interpreters called to interpret in any civil or criminal proceeding in any court of justice.

Who may take affidavits

41.(1) A person's affidavit may be taken by any of the following persons without a commission being issued for the purpose—

- (a) a justice, commissioner for declarations or notary public under the law of the State, the Commonwealth or another State;
- (b) a lawyer;
- (c) a conveyancer, or another person authorised to administer an oath, under the law of the State, the Commonwealth or another State.

(2) This section applies to an affidavit taken for Queensland law, whether it is taken inside or outside Queensland (including outside Australia).

(3) In this section—

“**taken**” includes received and sworn.

Mode of pleading affirmation instead of oath

42. Wherever in any legal proceeding of any kind any other legal proceedings may be set out it shall not be necessary to specify that any particular persons, who acted as jurors had made affirmation or declaration instead of oath, but if it is stated in such firstmentioned proceedings or in any record of any kind that the jurors served and acted as jurors (in the same way as if no Act had passed for enabling persons to serve as jurors without oath) such proceedings or record shall not be held insufficient in respect thereof.

References to Oaths Act Amendment Acts

43. In an Act or document, a reference to any of the following Acts is taken to be a reference to this Act, and a reference to a provision of any of the following Acts that was relocated to this Act is taken to be a reference to the corresponding provision of this Act—

- *Oaths Act Amendment Act 1876*
- *Oaths Act Amendment Act 1884*
- *Oaths Act Amendment Act 1891.*

SCHEDULE

section 39 of the Act

FORM OF SOLEMN AFFIRMATION

I solemnly affirm and declare that the evidence given by me to the court [*or* in these proceedings] shall be the truth, the whole truth, and nothing but the truth, and I make this solemn affirmation and declaration in the full knowledge that if I do not speak the truth, the whole truth, and nothing but the truth, I render myself liable to the penalties of wilful and corrupt perjury.

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 14 March 1997. Future amendments of the Oaths Act 1867 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 36 of 1992	27 July 1994
2	to Act No. 24 of 1995	27 April 1995
2A	to Act No. 58 of 1995	19 August 1996
2B	to Act No. 79 of 1996	20 February 1997

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed names and titles	1, 2
Comparative legislation	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Oaths Act 1867 31 Vic No. 12

date of assent 28 December 1867
commenced 31 December 1867 (see s 35)

as amended by—

Criminal Code Act 1899 63 Vic No. 9 s 3(2) sch 3

date of assent 28 November 1899
commenced on date of assent

Acts Citation Act 1903 3 Edw 7 No. 10 s 8(2) sch 2, s 10 sch 3

date of assent 13 November 1903
commenced on date of assent

Statute Law Revision Act 1908 8 Edw 7 No. 18 s 2 sch 1, s 5 sch 3

date of assent 23 December 1908
commenced on date of assent

Oaths Act Amendment Act 1924 15 Geo 5 No. 7

date of assent 8 September 1924
commenced on date of assent

Oaths Acts Amendment Act 1959 8 Eliz 2 No. 5

date of assent 25 March 1959
commenced on date of assent

Oaths Acts Amendment Act 1960 9 Eliz 2 No. 16

date of assent 31 October 1960
commenced on date of assent

Oaths Acts Amendment Act 1981 No. 4

date of assent 30 March 1981
commenced on date of assent

Oaths Act and Another Act Amendment Act 1981 No. 61 pts 1–2

date of assent 14 September 1981
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 1982 (proc pubd gaz 12 December 1981 p 1538)

Jury Act and Oaths Act Amendment Act 1988 No. 26 pts 1, 3

date of assent 11 April 1988
commenced on date of assent

Mineral Resources Act 1989 No. 110 s 1.6

date of assent 25 October 1989
commenced 1 September 1990 (proc pubd gaz 14 July 1990 p 1647)

Statute Law (Miscellaneous Provisions) Act 1992 No. 36 s 2 sch 1, s 4 sch 4

date of assent 2 July 1992
commenced on date of assent

Justice and Attorney-General (Miscellaneous Provisions) Act 1995 No. 24 pts 1, 8, ss 6–7, 38, 41, 45–46

date of assent 11 April 1995
 commenced on date of assent

Jury Act 1995 No. 42 ss 1–2, s 76 sch 2

date of assent 9 November 1995
 ss 1–2 commenced on date of assent
 remaining provisions commenced 17 February 1997 (1997 SL No. 13)

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995
 commenced on date of assent

Justice Legislation (Miscellaneous Provisions) Act 1996 No. 79 pts 1, 24

date of assent 12 December 1996
 pt 1 commenced on date of assent
 remaining provisions commenced 28 February 1997 (1997 SL No. 35)

7 List of annotations

Preamble om 1908 8 Edw 7 No. 18 s 2 sch 1

OATHS OF OFFICE AND ALLEGIANCE

hdg (prec s 1) om 1995 No. 24 s 25

PART 1—PRELIMINARY

pt hdg ins 1995 No. 24 s 25

Short title

s 1A ins 1995 No. 24 s 25

Definitions

s 1B ins 1995 No. 24 s 25

PART 2—OATHS OF OFFICE AND ALLEGIANCE

pt hdg ins 1995 No. 24 s 25

Judges' and justices' oaths of office

s 3 amd 1959 8 Eliz 2 No. 5 s 2; 1981 No. 4 s 2; 1989 No. 110 s 1.6

Form of oath of allegiance

s 5A (prev 1954 3 Eliz 2 No. 3 s 52(1), (2))
 prev s 5A om 1970 No. 10 s 3(1)(b)
 pres s 5A (prev 1954 3 Eliz 2 No. 3 s 31) renum 1991 No. 97 s 3 sch 1
 amd 1995 No. 24 s 7(1); R2 (see RA ss 23, 23A and s 5A)
 reloc 1995 No. 24 s 7(2)

DECLARATIONS SUBSTITUTED FOR CERTAIN OFFICIAL OATHS

hdg (prec s 6) om 1995 No. 24 s 26

PART 3—DECLARATION SUBSTITUTED FOR CERTAIN OFFICIAL OATHS

pt hdg ins 1995 No. 24 s 26

Persons making false declaration guilty of misdemeanour**s 11** om 1899 63 Vic No. 9 s 3(2) sch 3**Abolition of extra judicial oaths****s 12** om 1899 63 Vic No. 9 s 3(2) sch 3**STATUTORY DECLARATION****hdg (prec s 13)** amd 1908 8 Edw 7 No. 18 s 5 sch 3

om 1995 No. 24 s 27

PART 4—STATUTORY DECLARATIONS**pt hdg** ins 1995 No. 24 s 27**Who may take declarations****prov hdg** sub 1960 9 Eliz 2 No. 16 s 2(a)**s 13** amd 1899 63 Vic No. 9 s 3(2) sch 3; 1908 8 Edw 7 No. 18 s 2 sch 1; 1960

9 Eliz 2 No. 16 s 2(b); 1992 No. 36 s 2 sch 1

sub 1995 No. 24 s 28

FORM OF DECLARATIONS**hdg (prec s 14)** om 1995 No. 24 s 29**FEES PAYABLE THEREON****hdg (prec s 15)** om 1995 No. 24 s 29**False declaration****s 16** om 1899 63 Vic No. 9 s 3(2) sch 3**SOLEMN AFFIRMATION****hdg (prec s 17)** om 1995 No. 24 s 30**PART 5—SOLEMN AFFIRMATIONS AND DECLARATIONS****pt hdg** ins 1995 No. 24 s 30**Affirmation instead of oath in certain cases****s 17** amd 1981 No. 61 s 5**QUAKERS AND MORAVIANS****hdg (prec s 18)** om 1995 No. 24 s 31**Quakers and Moravians permitted to make a solemn affirmation or declaration instead of oath****s 18** amd 1899 63 Vic No. 9 s 3(2) sch 3; 1995 No. 24 s 31**SEPARATISTS****hdg (prec s 19)** om 1995 No. 24 s 31**Separatists instead of an oath may make the following affirmation****s 19** amd 1995 No. 24 s 31**Persons making a false affirmation to be subject to the same punishment as for perjury****s 20** om 1899 63 Vic No. 9 s 3(2) sch 3**OATHS OF JURORS****hdg (prec s 21)** om 1995 No. 24 s 32

PART 6—OTHER OATHS**pt hdg** ins 1995 No. 24 s 32**Swearing of jurors in civil trials****s 21** sub 1995 No. 42 s 76 sch 2**Swearing of jurors in criminal trials****s 22** sub 1995 No. 42 s 76 sch 2**OATHS OF WITNESSES****hdg (pre s 23)** om 1995 No. 24 s 33**Witnesses' oath in civil causes****s 23** amd 1981 No. 61 s 6**Witnesses' oath in proceedings not otherwise specified****s 23A** ins 1981 No. 61 s 7**OATH TO MAKE TRUE ANSWER****hdg (prec s 24)** om 1995 No. 24 s 33**OATHS OF INTERPRETERS IN CIVIL CAUSES****hdg (prec s 26)** om 1995 No. 24 s 33**INTERPRETERS' OATHS FOR THE PURPOSE OF ARRAIGNMENT****hdg (prec s 28)** om 1995 No. 24 s 33**OATHS OF INTERPRETERS IN CRIMINAL CASES****hdg (prec s 29)** om 1995 No. 24 s 33**Interpreter's oath to interpret between a prisoner, defendant or witness and others****prov hdg** ins 1995 No. 24 s 34(1)**s 29** amd 1995 No. 24 s 34(2); 1996 No. 79 s 89**Where witness and prisoner are of different languages—first interpreter's oaths****s 30** amd 1996 No. 79 s 90**OATHS OF PERSONS RESPONSIBLE FOR JURY****hdg (prec s 31)** sub 1988 No. 26 s 6

om 1995 No. 24 s 33

Oath of bailiff in charge of jury**s 31** sub 1988 No. 26 s 6; 1995 No. 42 s 76 sch 2**Oath of police officer assisting bailiff in charge of jury****s 31A** ins 1988 No. 26 s 6**GENERAL PROVISION****hdg (prec s 32)** om 1995 No. 24 s 35**PART 7—MISCELLANEOUS****pt hdg** ins 1995 No. 24 s 35

Special provision as to oaths

s 33 (prev s 33 om 1899 63 Vic No. 9 s 3(2) sch 3
pres s 33 ins 1924 15 Geo 5 No. 7 s 2)

POWERS OF THE COURT

hdg (prec s 34) om 1995 No. 24 s 33

General rules may be made by the Judges

s 34 om 1995 No. 58 s 4 sch 1

COMMENCEMENT AND SHORT TITLE

hdg (prec s 35) om 1995 No. 24 s 36

Mode of binding interpreters to interpreting certain cases

s 35 (prev 1876 40 Vic No. 10 s 3)
prev s 35 om 1995 No. 24 s 36
pres s 35 reloc 1995 No. 24 s 38

Interruption of trial by reason of failure of interpreters not to entitle to acquittal

s 36 (prev 1876 40 Vic No. 10 s 4)
reloc 1995 No. 24 s 38

Mode of taking evidence of persons objecting or incompetent to take an oath

s 37 (prev 1884 48 Vic No. 19 s 2)
amd 1899 63 Vic No. 9 s 3(2) sch 3
reloc 1995 No. 24 s 41

Interpreters

s 38 (prev 1884 48 No. 19 s 3)
amd 1995 No. 24 s 40
reloc 1995 No. 24 s 41

Mode of taking evidence of witness who can not be sworn in manner required by witness's religion—schedule

s 39 (prev 1891 55 Vic No. 14 s 1)
amd 1899 63 Vic No. 9 s 3(2) sch 3
reloc 1995 No. 24 s 45

Interpreter

s 40 (prev 1891 55 Vic No. 14 s 2)
amd 1995 No. 24 s 43
reloc 1995 No. 24 s 45

Who may take affidavits

s 41 (prev 1891 55 Vic No. 14 s 3)
sub 1974 No. 23 s 2; 1995 No. 24 s 44
reloc 1995 No. 24 s 45

Mode of pleading affirmation instead of oath

s 42 (prev 1954 3 Eliz 2 No. 3 s 48)
reloc 1995 No. 24 s 6

References to Oaths Act Amendment Acts

s 43 ins 1995 No. 24 s 36
amd 1995 No. 58 s 4 sch 1

SCHEDULE—FORM OF SOLEMN AFFIRMATION

(prev 1891 55 Vic No. 14 sch)
amd 1981 No. 61 s 9
reloc 1995 No. 24 s 46

8 Revised form of oath or affirmation of office for justices of the peace

Justices of the Peace and Commissioners for Declarations Act 1991, section 20(1) and (2) provides as follows—

Oath or affirmation of office

20.(1) Before a person other than a Supreme Court Judge or District Court Judge performs any of the functions of office as a justice of the peace, the person is to—

- (a) take an oath of allegiance and office in the following form—

“I, _____, do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of justice of the peace and I will do right to all manner of people according to law without fear or favour, affection or ill-will.

SO HELP ME GOD!”; or

- (b) make an affirmation of allegiance and office in the following form—

“I, _____, do solemnly, sincerely, declare and affirm that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of justice of the peace and I will do right to all manner of people according to law without fear or favour, affection or ill-will.”.

(2) The oath or affirmation referred to in subsection (1) may be taken or made before, and administered or received by, a Supreme Court Judge or a District Court Judge, a Magistrate or any person authorised in that behalf by writ of *dedimus potestatem*.