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**OATHS ACT**
**Principal Act**

<b>Act. No. 1934-33</b>	<i>Commencement</i>	5.10.1934
	<i>Assent</i>	5.10.1934

Amending enactment	Relevant current provisions	Commencement date
Acts. 1943-16	s. 8	
1948-20	s. 7	
1953-16	Sch. 1	
1953-21	s. 13	
1956-18	s. 5	
1961-28	s. 16	
Order of 15.8.1960	Sch. 1	
24.10.1962	Sch. 1	
16.9.1969	s. 12(2)	
Acts. 1977-37	ss. 3, 6, 11 and Schs. 1 and 2	

## English sources

Promissory Oaths Act 1868 (31 & 32 Vict. c.72)  
 Oaths Act 1888 (51 & 52 Vict. c.46)  
 Oaths Act 1909 (9 Edw.7 c.39)  
 Oaths Act 1961 (9 & 10 Eliz.2 c.21)

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 RENUMBERING OF SECTIONS

Previous number	New number	Remark
1	1	
2	2	
3		<i>Repealed</i>
4	3	
5		<i>Repealed</i>
6		<i>Repealed</i>
7	4	
8		Included in 4
9		<i>Repealed</i>
10	5	
11	6	
12	7	
13	8	
14	9	
15	10	
16	11	
17	12	
18	13	
19	14	
20	15	
21	16	
22	17	
23	18	
24	19	
25	20	
First Sch.		<i>Repealed</i>
Second Sch.	Sch. 1	
Third Sch.	Sch. 2	

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**ARRANGEMENT OF SECTIONS.**

## Section

1. Short title.

**PART I.—PROMISSORY OATHS.**

2. Oath of allegiance.
3. Judicial oath.
4. Clerk of Gibraltar Council to take oath of allegiance and oath of secrecy.
5. Oaths to be taken by persons appointed to offices named in Schedule 1.
6. Oaths for police officers and others.
7. Oath of secrecy of prison officers.
8. Prohibition of oaths of allegiance, etc., except in accordance with Act.
9. The name of the Sovereign for the time being to be used in oaths,
10. Unnecessary repetition of oaths.
11. Omission to take oath not to render acts invalid.
12. Oaths to be recorded and attested.

**PART II.—OATHS GENERALLY.**

13. Application of Part II.
14. When affirmation may be made instead of oath.
15. Affirmation in other cases.
16. Form of affirmation.
17. Validity of oath not affected by absence of religious belief.
18. Form of affirmation in writing.
19. Swearing with uplifted hand.
20. Manner of administration of oaths.

**SCHEDULE 1**

Persons required to take the Oath of Allegiance and the Judicial Oath.

**SCHEDULE 2**

Officers required to take the Oaths prescribed by Section 6.

AN ACT TO AMEND THE LAW WITH RESPECT TO THE TAKING OF OATHS, AND FOR PURPOSES CONNECTED THEREWITH.

**Short title.**

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

**PART I.—PROMISSORY OATHS.**

**Oath of allegiance.**

2. The oath in this Act referred to as the oath of allegiance shall be in the form following:—

I, \_\_\_\_\_, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Her Heirs and Successors, according to Law. So help me God.

**Judicial oath.**

3. The oath in this Act referred to as the judicial oath shall be in the form following:—

I, \_\_\_\_\_, swear by Almighty God that I will well and truly serve Our Sovereign Lady Queen Elizabeth II, Her Heirs and Successors as a judicial officer, and will do right to all manner of people after the law and usages of the City of Gibraltar, without fear or favour, affection or ill-will. So help me God.

**Clerk of Gibraltar Council to take oath of allegiance and oath of secrecy.**

4.(1) The Clerk of the Gibraltar Council shall take the oath of allegiance and an oath of secrecy at the opening of the first meeting of the Gibraltar Council which he attends after appointment to office.

(2) Both such oaths shall be tendered by the Governor or by the member of the Gibraltar Council presiding at such meeting.

(3) If any person shall once have duly taken the oaths in this section prescribed for the Clerk of the Gibraltar Council, such person shall not if re-appointed to perform the duties of Clerk of the Gibraltar Council be required a second time to take such oaths as Clerk of the Gibraltar Council.

(4) The oath of secrecy referred to in subsection (1) shall be in the form following:—

I, \_\_\_\_\_, being appointed Clerk (or Acting Clerk, as the case may be) of the Gibraltar Council in and for the City of Gibraltar, swear by Almighty God that I will not directly or indirectly reveal such matter as shall be debated in Council and committed to my secrecy. So help me God.

**Oaths to be taken by persons appointed to offices named in Schedule 1.**

5.(1) Subject as hereinafter provided, the oath of allegiance and judicial oath shall be taken before the Chief Justice by any person holding an office named in or which may hereafter be added to Schedule 1, as soon as may be after his appointment to office.

(2) The Governor may from time to time by order under his hand remove from or add to the said Schedule the name of any office, as he shall see fit.

**Oaths for police officers and others.**

6.(1) The officers named in Schedule 2 shall on appointment take before a justice of the peace the oath of allegiance and the following oath:—

I, \_\_\_\_\_, do swear by Almighty God that I will faithfully perform the duty of (as the case may be) as by law appointed without fear or favour, affection or ill-will. So help me God.

(2) The Governor may from time to time by order under his hand remove or add to Schedule 2 the name of any officer as he shall see fit.

**Oath of secrecy of prison officers.**

7. Every prison officer shall on appointment, after taking the oaths required by section 6 and before entry upon his duties, take before a justice of the peace an oath of secrecy in the form following:—

I, \_\_\_\_\_, do swear by Almighty God that I will not directly or indirectly reveal to any unauthorized persons such matters as shall come to my knowledge by virtue of my appointment. So help me God.

**Prohibition of oaths of allegiance, etc., except in accordance with Act.**

8. No person shall be required or authorized to take the oaths of allegiance, supremacy, and abjuration, or any of such oaths, or any oath substituted for such oaths or any of them, or to make any affirmation or declaration to the like effect of such oaths or any of them, except the persons required to take the oath of allegiance by this or some other Act.

**The name of the Sovereign for the time being to be used in oaths.**

9. Where in any oath under this Act, the name of Her present Majesty is expressed, the name of the Sovereign of the United Kingdom for the time being shall be substituted from time to time.

**Unnecessary repetition of oaths.**

10.(1) When any person is appointed to act in any office or capacity named in Schedule 1 in the place and during the absence of any officer or person, he shall not be required to take any oath on the occasion of such acting appointment if he has taken such oath in respect of any previous appointment, permanent, or temporary.

(2) If any person shall once have duly taken the oaths prescribed by the Constitution for members of Gibraltar Council, whether being a member of the Council or being deemed to be a member under the provisions of section 51(6) of the Constitution, such person shall not, if reappointed as a member or being deemed to be a member of the Council, as the case may be, within the space of three years from the time of his taking such oaths as aforesaid, be required a second time to take such oaths..

**Omission to take oath not to render acts invalid.**

11.(1) Nothing in this Act contained shall render, or be deemed to render or be deemed to have rendered invalid any act done or which hereafter may be done by a person holding a public office in Gibraltar in the execution or intended execution of his official duties by reason only of the omission by such person to take any such oath which by reason of the provisions of this Act such person should take or have taken:

Provided that, if any person declines, neglects or omits, where any oath to be taken under this Act is duly tendered, to take such oath he shall, if he shall have already entered on his office, vacate the same, and if he shall not have already entered on his office, be disqualified from entering on the same.

(2) Nothing herein contained shall be deemed to impose any additional legal duty or disability upon any person who shall prior to the commencement of this Act duly have taken the oaths in respect of any office held by him and no person who held any office at the date of coming into operation of this Act shall be required to take any or any further oaths in respect of the office so held by him unless the Governor shall within three months of the coming into operation of this Act so direct.

**Oaths to be recorded and attested.**

12.(1) Every oath taken in pursuance of the provisions of this Part shall be recorded in one of the books kept for the purpose and the person taking the oath shall at the time thereof be required to place his signature in the appropriate book and the person tendering the oath shall attest the same in the book, and such book shall be conclusive evidence for all purposes that any oath therein recorded has been duly taken and recorded.

(2) Oaths taken by officers named in Schedules 1 and 2 shall be recorded in a separate book for each Schedule and kept respectively by the Chief Justice and the Stipendiary Magistrate.

## **PART II.—OATHS GENERALLY.**

### **Application of Part II.**

13. The provisions of this Part shall apply to any oath required to be taken under the provisions of this Act or any other law for the time being in force relating to the taking and tendering or administering of oaths.

### **When affirmation may be made instead of oath.**

14. Every person upon objecting to being sworn, and stating, as the ground of such objection, either that he has no religious belief, or that the taking of an oath is contrary to his religious belief, shall be permitted to make his solemn affirmation instead of taking an oath, in all places and for all purposes where an oath is or shall be required by law, which affirmation shall be of the same force and effect as if he had taken the oath.

### **Affirmation in other cases.**

15.(1) Section 14 shall apply in relation to a person to whom it is not reasonably practicable to administer an oath in the manner appropriate to his religious belief as it applies in relation to a person objecting to being sworn on any such ground as is mentioned in section 14.

(2) A person who may be permitted under this section to make his solemn affirmation may also be required to do so, and for the purposes of this section “reasonably practicable” means reasonably practicable without inconvenience or delay.

### **Form of affirmation.**

16. Every such affirmation shall be as follows:—

“I, A.B., do solemnly, sincerely and truly declare and affirm”, and then proceed with the words of the oath prescribed by law, omitting any words of imprecation or calling to witness.

**Validity of oath not affected by absence of religious belief.**

17. Where an oath has been duly tendered or administered and taken, the fact that the person to whom the same was tendered or administered had, at the time of taking such oath, no religious belief, shall not for any purpose affect the validity of such oath.

**Form of affirmation in writing.**

18. Every affirmation in writing shall commence,—

“I, \_\_\_\_\_, of \_\_\_\_\_, do solemnly and sincerely affirm,” and the form in lieu of jurat shall be—

“Affirmed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, Before me.”

**Swearing with uplifted hand.**

19. If any person to whom an oath is tendered or administered desires to swear with uplifted hand, in the form and manner in which an oath is usually tendered or administered in Scotland, he shall be permitted so to do, and the oath shall be tendered or administered to him in such form and manner without further question.

**Manner of administration of oaths.**

20.(1) Any oath may be tendered or administered and taken in the form and manner following:—

The person taking the oath shall hold the New Testament, or, in the case of a Jew, the Old Testament, in his uplifted hand, and shall say or repeat after the officer administering the oath the words “I swear by Almighty God that...”, followed by the words of the oath prescribed by law.

(2) Any and every person duly authorized to tender or administer oaths shall (unless the person about to take the oath voluntarily objects thereto, or is physically incapable of so taking the oath) tender or administer the oath in the form and manner aforesaid without question :

Provided that, in the case of a person who is neither a Christian nor a Jew, the oath shall be tendered or administered in any manner which is now lawful.



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**SCHEDULE 1**

Section 5

**PERSONS REQUIRED TO TAKE THE OATH OF ALLEGIANCE AND  
THE JUDICIAL OATH.**

Judge of the Court of First Instance\*.  
Stipendiary Magistrate.  
Justices of the Peace.  
Coroner.  
Registrar of the Supreme Court.  
Deputy Registrar of the Supreme Court.  
Clerk of the Court of First Instance\*.  
Clerk to the Justices.

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**SCHEDULE 2.**

Section 6

**OFFICERS REQUIRED TO TAKE THE OATHS PRESCRIBED  
BY SECTION 6**

Police Officers  
Prison Officers  
Revenue Officers

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\* *Court of first Instance Act repealed by the Administration of Justice Act 2004 (2004-11) s.3 as from 1.9.2004. All references to the Court of First Instance shall be read as if it were a reference to the Supreme Court (see Act 2004-11 s.7).*