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OATHS AND DECLARATIONS ORDINANCE 1972

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HONG KONG

No. 20 OF 1972

L.S.

I assent.

MURRAY MACLEHOSE,
Governor.

27th April, 1972.

An Ordinance to amend and consolidate the law relating to oaths and declarations, to make provision for matters connected therewith, and to exercise the power conferred by section 2 of the Colonial Affidavits Act 1859.

[28th April, 1972.]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

PART I**PRELIMINARY**

1. This Ordinance may be cited as the Oaths and Declarations Ordinance 1972. Short title.
2. In this Ordinance, unless the context otherwise requires— Interpretation.

“commissioner” means a commissioner for oaths duly appointed by the Chief Justice under any enactment in force in Hong Kong;

“notary” means a notary public duly registered by the Registrar of the Supreme Court under section 40 of the Legal Practitioners Ordinance; (Cap. 159.)

“person acting judicially” means a tribunal, commission or other person having by law power to receive evidence on oath.

PART II**OATHS AND DECLARATIONS IN GENERAL**

3. A court and a person acting judicially may administer an oath to a witness who is lawfully called or voluntarily comes before it or him. Who may administer oaths.
[cf. 1851
c. 99, s. 16.]

Powers of
Legislative
Council as to
examination
of witness.
[cf. 1871 c. 83, s. 1.]

4. (1) The Legislative Council and any committee thereof may administer an oath to a witness examined before the Council or committee, and for that purpose shall have the same powers, rights and privileges as are possessed or exercisable by the House of Commons of the United Kingdom or any committee thereof, enforcing the attendance of witnesses and punishing persons guilty of contempt.

(2) An oath may be administered by the presiding member of the Council or any committee thereof.

Normal
manner of
administration
of oaths.
[cf. 1909
c. 39, ss. 2, 3.]

5. (1) An oath may be administered and taken in the following form and manner—

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 _____”, or “本人謹對全能上帝(天主)宣誓, _____”, followed by the words of the oath prescribed by law.

(2) The officer shall, unless the person about to take the oath objects thereto, or is physically incapable of so taking the oath administer the oath in the form and manner aforesaid:

Provided that, in the case of a person who is neither a Christian nor a Jew, the oath may be administered in any manner which is appropriate to his religious belief.

(3) In this section, “officer” means a person authorized to administer an oath.

Validity of
oath not
affected by
absence of
religious belief.
1888 c. 46, s. 3.

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

Affirmation in
lieu of oath.
[cf. 1888 c. 46, s. 1.]

7. (1) A person, upon objecting to being sworn, shall be permitted to make his affirmation instead of taking an oath for any purpose for which an oath is required by law.

(2) A person who is neither a Christian nor a Jew shall be permitted to make his affirmation instead of taking an oath for any purpose for which an oath is required by law.

[cf. 1888 c. 46, s. 2.]

(3) An affirmation shall commence—

(a) “I, _____, solemnly, sincerely, and truly declare and affirm”, or

(b) “本人，
，謹以至誠，據實聲明及確認”，

and then proceed with the words of the oath prescribed by law, omitting any words of imprecation or calling to witness.

(4) An affirmation in writing shall commence— [cf. 1888 c. 46, s. 4.]

(a) “I,
 , of
 , solemnly
 and sincerely affirm”, or

(b) “本人，
，現居於
，
謹以至誠確認”，

and end—

(i) “Affirmed at
 this
 day of
 19
 , Before me
 .”,
 or

(ii) “此項確認係於一九
 年
 月
 日在
 ，
 及在本人面前提出，
 。”

(5) An affirmation shall be of the same force and effect as an oath in the usual form.

(6) Subsections (1), (3) and (4) shall apply in relation to a [cf. 1961 c. 21, s. 1.]
person to whom it is not reasonably practicable without inconvenience or delay to administer an oath in the manner appropriate to his religious belief as it applies in relation to a person objecting to being sworn.

(7) A person who may be permitted under this section to [cf. 1961 c. 21, s. 1.]
make his affirmation may also be required to do so.

8. If a person taking an oath or making an affirmation is Interpretations
of oaths and
affirmations.
unfamiliar with the English language the oath or affirmation shall be interpreted to him by a sworn interpreter.

9. (1) No person shall administer or receive an oath, Unlawful
administration
of oaths.
[cf. 1835 c. 62, s. 13.]
affidavit or affirmation relating to any matter or thing in respect of which that person has no jurisdiction by some enactment.

(2) Any person who wilfully contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of one thousand dollars.

(3) Nothing in this section shall extend to an oath, affidavit or affirmation before a justice—

(a) relating to the maintenance of public order, or the prosecution, trial, or punishment of offences; or

(b) relating to any proceedings before the Legislative Council or before any committee thereof; or

- (c) for the purpose of legal proceedings in any foreign country; or
- (d) required by the law of any foreign country to give validity to any document designed to be used in that country.

(4) Nothing in this section shall extend to an oath, affidavit or affirmation before a notary required by the law of any foreign country to give validity to any document designed to be used in that country.

10. An oath, affidavit, affirmation and notarial act administered, sworn, affirmed, or done under section 6 of the Commissioners for Oaths Acts 1889 and 1891 shall be as effectual as if duly administered, sworn, affirmed, or done by or before any lawful authority in Hong Kong.

Admissibility of notarial acts done before British diplomatic and consular officers.

[cf. 1889 c. 10, s. 6(1).
1891 c. 50, s. 2.]

Evidence for foreign civil proceedings.

[cf. 1963 c. 27, s. 1.]

11. A person appointed by a court or other judicial authority of a foreign country shall have power in Hong Kong to administer oaths or take affidavits for the purpose of taking evidence for use in proceedings, not being criminal proceedings, carried on under the law of that country.

PAR III

STATUTORY DECLARATIONS

12. A justice, notary, commissioner or other person authorized by law to administer an oath may take and receive the declaration of any person made before him in the manner provided by section 14.

13. If by law a person is authorized or required to make a declaration or a statutory declaration, that declaration shall be made and signed in the manner provided by section 14.

14. (1) A declaration shall be in one of the forms set out in the First Schedule.

(2) If the declarant is unfamiliar with the English language, the declaration shall be in the form set out in Part II of the First Schedule and the interpreter shall first make a declaration or take an oath in the form set out in Part III of the First Schedule.

Taking and receiving declarations.

[cf. 1835 c. 62, s. 18.]

Manner of making declarations.

[cf. 1835 c. 62, s. 20.]

Form of declaration.

First Schedule.

[cf. 1835 c. 62, s. 18.]

15. An attesting witness to the execution of a will, deed or document, and any other competent person, may verify and prove the signing, sealing, publication or delivery of the will, deed or document by a declaration made in the manner provided by section 14.

Declaration in writing sufficient to prove execution of will etc.
[cf. 1835 c. 62, s. 16.]

PART IV

PROMISSORY OATHS

16. The Oaths referred to in this Ordinance as—

- (a) the Oath of Allegiance;
- (b) the Judicial Oath;
- (c) the Oath of Fidelity;
- (d) the Official Oath; and
- (e) the Oath of Secrecy,

Forms of Oaths.
[cf. 1868 c. 72, ss. 2, 3, 4.]

shall be in the respective forms set out in Parts I to V of the Second Schedule.

Second Schedule.

17. Each of the judicial officers specified in the Third Schedule shall take the Oath of Allegiance and the Judicial Oath, which shall be tendered in the manner specified in that Schedule as soon as possible after his appointment.

Oaths of judicial officers.
Third Schedule.
[cf. 1868 c. 72, s. 6.]

18. (1) A member of the Executive Council shall take the Oath of Allegiance and the Oath of Fidelity as soon as possible after his appointment.

Oaths of Executive Councillors.
[cf. 1868 c. 72, s. 5.]

(2) An *ex officio* member of the Executive Council shall also take the Official Oath as soon as possible after his appointment.

(3) The Oaths taken by members of the Executive Council shall be tendered by the Governor, or other member presiding.

19. A member of the Legislative Council shall, as soon as possible after his appointment, take the Oath of Allegiance, which shall be tendered by the Governor, or other member presiding.

Oath of Legislative Councillors.

20. The Clerk of Councils and the Deputy Clerk of Councils shall, as soon as possible after appointment, each take the Oath of Allegiance and the Oath of Secrecy, which shall be tendered by the Colonial Secretary.

Oaths of Clerk and Deputy Clerk of Councils.

21. Any person who declines or neglects to take an oath duly tendered which he is required to take by this Part, shall—

- (a) if he has already entered on his office, vacate it, and

Consequence of non-compliance.
[cf. 1868 c. 72, s. 7.]

- (b) if he has not entered on his office, be disqualified from entering on it.

When Oaths
need not be
repeated.
Third Schedule.
[cf. 1868 c. 72, s. 7.]

22. (1) No judicial officer specified in the Third Schedule shall be required to take the Oath of Allegiance or the Judicial Oath, if he has taken it upon previous appointment to the same office.

(2) No member of the Executive Council or the Legislative Council shall be required to take the Oath of Allegiance, if he has taken it upon previous appointment to either Council.

(3) No member of the Executive Council shall be required to take—

(a) the Oath of Fidelity, if he has taken it upon previous appointment to the Council; or

(b) the Official Oath, being an *ex officio* member, if he has taken it upon previous appointment to the same office.

(4) Neither the Clerk of Councils nor the Deputy Clerk of Councils shall be required to take the Oath of Allegiance or the Oath of Secrecy, if he has taken it upon previous appointment to either office.

PART V

GENERAL

Use of
English or
Chinese.

23. An oath, affidavit, affirmation or declaration may be administered, sworn, affirmed, declared, made, taken or received either in English or in Chinese at the option of the witness, deponent, affirmant, declarant or the person taking an oath.

Repeal and
amendment.
(Cap. 8.)

24. (1) Section 21 and Part V of the Evidence Ordinance are repealed.

(Cap. 11.)
(Cap. 90.)

(2) The Statutory Declarations Ordinance and the Promissory Oaths Ordinance are repealed.

(1835 c. 62.)

(3) Sections 15 and 17 of the Statutory Declarations Act 1835 are repealed.

Fourth Schedule.

(4) The Ordinances specified in the Fourth Schedule are amended in the manner specified therein.

FIRST SCHEDULE

PART I

[s. 14.]

Declaration

I, A.B., of _____, solemnly and sincerely
 declare that [Insert facts.]

And I make this solemn declaration conscientiously believing the same
 to be true and by virtue of the Oaths and Declarations Ordinance 1972.

(Signed) A.B.

Declared at _____ in the Colony of Hong Kong
 this _____ day of _____ 19 _____ .

Before me,

[Signature and designation, *i.e.*, Justice
 of the Peace/Notary Public/Commis-
 sioner for Oaths.]

OR

聲 明

本人，某甲，現居於 _____ ，
 謹以至誠聲明：（填寫所聲明之事實。）

本人謹根據一九七二年宣誓及聲明條例衷誠提出此項聲明，並確信其為真實無
 訛。

(簽署) 某甲

此項聲明係於一九 _____ 年 _____ 月 _____ 日在香港 _____ ，
 及在本人面前提出。

(簽署及叙明簽署人之身份，即：
 太平紳士／公證人／監誓官。)

PART II

[s. 14.]

*Declaration by person who is unfamiliar with
 the English language*

I, A.B., of _____, solemnly and sincerely
 declare that [Insert facts.]

And I make this solemn declaration conscientiously believing the
 same to be true and by virtue of the Oaths and Declarations Ordinance
 1972.

(Signed) A.B.

Declared at _____ in the Colony of Hong Kong
this _____ day of _____ 19____, through the interpretation of
[Insert name of interpreter] of [Insert address and occupation], the said
interpreter having been also first declared [or sworn, as the case may be]
that he had truly, distinctly, and audibly interpreted the contents of this
document to the declarant, and that he would truly and faithfully interpret
the declaration about to be administered to him.

Before me,

[Signature and designation, i.e., Justice
of the Peace/Notary Public/Commis-
sioner for Oaths.]

PART III

Declaration or oath by interpreter

[s. 14.]

*In case of an oath
substitute "swear"
for "solemnly and
sincerely declare".

I, C.D., of _____, solemnly and sincerely
declare* that I well understand the English and [state foreign language]
languages and that I have truly, distinctly, and audibly interpreted the
contents of this document to the declarant [Insert name], and that I will
truly and faithfully interpret the declaration about to be administered
to him.

(Signed) C.D.

Interpreter.

Declared at _____ in the Colony of Hong Kong
this _____ day of _____ 19____.

Before me,

[Signature and designation, i.e., Justice
of the Peace/Notary Public/Commis-
sioner for Oaths.]

SECOND SCHEDULE

PART I

Oath of Allegiance

[ss. 16, 17, 18,
19, 20.]

I, _____, swear that I will be faithful and
bear true allegiance to Her Majesty Queen Elizabeth the Second, Her
Heirs and Successors, according to law. So help me God.

OR

效忠宣誓

本人，
陛下及其繼位人效忠，此誓。

，謹遵法律宣誓：本人必竭誠向女皇伊利沙伯二世

PART II

[ss. 16, 17.]

Judicial Oath

I, _____, swear that I will well and truly serve Our Sovereign Lady Queen Elizabeth the Second in the office of _____, and I will do right to all manner of people after the laws and usages of this Colony, without fear or favour, affection or ill will. So help me God.

OR

司法宣誓

本人，
並為女皇伊利沙伯二世陛下效力，當必盡忠職守，努力服務，並遵行香港法律與習俗，以不懼、不偏、無私、無欺之精神，為全體民衆主持正義，此誓。

，謹此宣誓：本人奉委為 _____，

PART III

[ss. 16, 18.]

Oath of Fidelity

I, _____, being chosen and admitted of Her Majesty's Executive Council in this Colony, swear that I will, to the best of my judgment, at all times when thereto required, freely give my counsel and advice to the Governor for the good management of the public affairs of this Colony; that I will not, except with the authority of the Governor, directly or indirectly reveal the business or proceedings of the Executive Council or the nature or contents of any document communicated to me as a Member of the Council or any matter coming to my knowledge in my capacity as a Member of the Council, and that in all things I will be a true and faithful Councillor. So help me God.

OR

盡職宣誓

本人，
宣誓：本人當必隨時依照所需，及根據本人之判斷，盡將本人之意見與建議，向總督提出，務求香港之公眾事務，均有良好之管理；又本人除獲得總督之授權外，決不直接或間接將行政局之事務或議程，或將本人以該局議員身份而接獲之任何文件，或獲知之任何事情等之性質或內容，加以洩露，並在一切事務而言，本人自當盡職為一真實忠誠之議員，此誓。

，奉委為女皇陛下在香港所設行政局之議員，謹此

PART IV

Official Oath

[ss. 16, 18.]

I, _____, swear that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of _____ . So help me God.

OR

受任宣誓

本人， _____，謹此宣誓：本人奉委為 _____，並為女皇伊利沙伯二世陛下效力，當必盡忠職守，努力服務，此誓。

PART V

Oath of Secrecy

[ss. 16, 20.]

I, _____, having been appointed Clerk of Councils (or Deputy Clerk of Councils) in the Colony, swear that I will not, except with the authority of the Governor, directly or indirectly reveal the business or proceedings of the Executive Council or the nature or contents of any document communicated to me as Clerk of Councils (or Deputy Clerk of Councils) or any matter coming to my knowledge in my capacity as Clerk of Councils (or Deputy Clerk of Councils). So help me God.

OR

保密宣誓

本人， _____，奉委為香港行政立法兩局秘書(或兩局副秘書)，謹此宣誓：本人除獲得總督之授權外，決不直接或間接將行政局之事務或議程，或將本人以行政立法兩局秘書(或兩局副秘書)身份而接獲之任何文件，或獲知之任何事情等之性質或內容加以洩露，此誓。

THIRD SCHEDULE

[s. 17.]

Judge of the Supreme Court (other than a Commissioner thereof appointed under section 13A(1) of the Supreme Court Ordinance)	The Oaths to be tendered by the Governor.
Commissioner of the Supreme Court	The Oaths to be tendered by a Judge.
District Judge	The Oaths to be tendered by a Judge.
Magistrate	
Justice of the Peace	The Oaths to be tendered by a Magistrate.

FOURTH SCHEDULE

[s. 23.]

Interpretation and General
Clauses Ordinance.

Section 3 is amended by deleting paragraph (a) in the definition of "statutory declaration" and substituting the following—

(Cap. 1.)

"(a) in Hong Kong, means a declaration under the repealed Statutory Declarations Ordinance or the Oaths and Declarations Ordinance 1972;"

Supreme Court Ordinance.

Section 12(3) is amended by deleting "section 2 of the Promissory Oaths Ordinance" in the proviso and substituting the following—

(Cap. 4.)

"section 17 of the Oaths and Declarations Ordinance 1972".

District Court Ordinance.

Section 4(3) is amended by deleting "section 2 of the Promissory Oaths Ordinance" in the proviso and substituting the following—

(Cap. 5.)

"section 17 of the Oaths and Declarations Ordinance 1972".

Cremation Ordinance.

Section 7(1) is amended by deleting "Statutory Declarations Ordinance;" in paragraph (d) and substituting the following—

(Cap. 133.)

"Oaths and Declarations Ordinance 1972;"

Magistrates Ordinance.

Section 5(6) is amended by deleting "section 2 of the Promissory Oaths Ordinance" in the proviso and substituting the following—

(Cap. 227.)

"section 17 of the Oaths and Declarations Ordinance 1972".

Motor Vehicles Insurance
(Third Party Risks) Ordinance.

Section 2 is amended by deleting the definition of "statutory declaration".

(Cap. 272.)

Passed by the Hong Kong Legislative Council this 26th day of April, 1972.

R. J. FRAMPTON,
Clerk to the Legislative Council.