

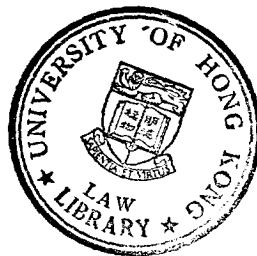
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# LAWS OF HONG KONG

## OATHS AND DECLARATIONS ORDINANCE

### CHAPTER 11



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**CHAPTER 11**  
**OATHS AND DECLARATIONS ORDINANCE**

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CHAPTER 11

OATHS AND DECLARATIONS

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.

[28 April 1972.]

Originally 20 of 1972.

22 of 1973. 79 of 1975. 13 of 1980. 49 of 1983. 23 of 1985. 35 of 1985. 32 of 1986.

PART I

PRELIMINARY

Short title. 1. This Ordinance may be cited as the Oaths and Declarations Ordinance.

Interpretation. 2. In this Ordinance, unless the context otherwise requires— "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

Who may administer oaths. 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. [cf. 1851 c. 99, s. 16.]

4. [Repealed, 35 of 1985, s. 27]

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

[cf. 1909 c. 39, ss. 2, 3.]

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.

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.

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

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.

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

(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.

(3) An affirmation shall commence—

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

(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 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.

[cf. 1961 c. 21, s. 1.]

(7) A person who may be permitted under this section to make his affirmation may also be required to do so.

[cf. 1961 c. 21, s. 1.]

Interpretations of oaths and affirmations.

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

Unlawful administration of oaths.  
[*cf.* 1835 c. 62, s. 13.]

9. (1) No person shall administer or receive an oath, 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 \$1,000.

(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.

Admissibility of notarial acts done before British diplomatic and consular officers.  
[*cf.* 1889 c. 10, s. 6(1).]  
1891 c. 50, s. 2.

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.

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.

### PART III

#### STATUTORY DECLARATIONS

Taking and receiving declarations.  
[*cf.* 1835 c. 62, s. 18.]

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.

Manner of making declarations.  
[cf. 1835 c. 62, s. 20.]

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

Form of declaration.  
First Schedule.  
[cf. 1835 c. 62, s. 18.]

(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.

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;
- (ca) the Executive Council Oath; (*Added, 32 of 1986, s. 2*)
- (d) the Official Oath;
- (da) the Legislative Council Oath; and (*Added, 23 of 1985, s. 2*)
- (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 Fidelity and either the Oath of Allegiance or the Executive Council Oath as soon as possible after his appointment. (*Amended, 32 of 1986, s. 3*)

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.

Oath of  
Legislative  
Councillors.

19. A member of the Legislative Council shall, as soon as possible after his appointment, or in the case of an elected member after the commencement of his term of office as an elected member, take the Oath of Allegiance or the Legislative Council Oath, which shall be tendered by the Governor, or other member presiding.

(Amended, 23 of 1985, s. 3)

Oaths of Clerk  
and Deputy  
Clerk of  
Councils.

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 Chief Secretary.

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

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
- (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 a judicial office specified in the Third Schedule. (Amended, 13 of 1980, s. 2)

(2) No member of the Executive Council shall be required to take the Oath of Allegiance or the Executive Council Oath if he has taken—

- (a) the Oath of Allegiance or the Executive Council Oath upon previous appointment to the Executive Council; or
- (b) the Oath of Allegiance upon previous appointment or election to the Legislative Council. (Replaced, 32 of 1986, s. 4)

(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.

(3A) No member of the Legislative Council shall be required to take the Oath of Allegiance or the Legislative Council Oath if he has taken—

- (a) the Oath of Allegiance upon previous appointment to the Executive Council or upon previous appointment or election to the Legislative Council; or
- (b) the Legislative Council Oath upon previous appointment or election to the Legislative Council. (Added, 23 of 1985, s. 4)

(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

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.

Use of English or Chinese.

## 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.

(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/Commissioner 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／監宣官。)

## 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.

(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/Commissioner  
 for Oaths.]

PART III

[s. 14.]

*Declaration or oath by interpreter*

\*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/Commissioner  
 for Oaths.]

SECOND SCHEDULE

PART I

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

*Oath of Allegiance*

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，\_\_\_\_\_, 謹遵法律宣誓：本人必竭誠向  
 女皇伊利沙伯二世陛下及其繼位人效忠，此誓。

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 in any other judicial office specified in the Third Schedule to the Oaths and

Declarations Ordinance to which I may be appointed, 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，  
，謹此宣誓：在奉委為  
及其後可能出任宣誓及聲明條例第三附表所指之任何其他司法  
職位時，定當為女皇伊利沙伯二世陛下效力，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。

(Replaced, 13 of 1980, s. 3)

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，  
，奉委為女皇陛下在香港所設行政局之議員，  
謹此宣誓：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。

PART IIIA

[ss. 16, 18.]

Executive Council Oath

I,   
 , swear that I will uphold the law of Hong Kong, and that I will conscientiously and truly serve the people of Hong Kong as a member of the Executive Council. So help me God.

OR

行政局宣誓

本人，  
，謹此宣誓：  
本人必定維護香港法律，並且必定以行政局議員身份，衷誠而確實為香港市民  
效力，此誓。

(Part IIIA added, 32 of 1986, s. 5)

## PART IV

[ss. 16, 18.]

*Official Oath*

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 IVA

[ss. 16, 19.]

*Legislative Council Oath*

I, \_\_\_\_\_, swear that I will uphold the law of Hong Kong, and that I will conscientiously and truly serve the people of Hong Kong as a member of the Legislative Council. So help me God.

OR

## 立法局宣誓

本人，\_\_\_\_\_，謹此宣誓：本人必定維護香港法律，並且必定以立法局議員身份，衷誠而確實為香港市民效力，此誓。

(Part IVA added, 23 of 1985, s. 5)

## PART V

[ss. 16, 20.]

*Oath of Secrecy*

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 High Court (other than a deputy judge thereof appointed under section 10(1) of the Supreme Court Ordinance) ... The Oaths to be tendered by the Governor.

(Cap. 4.)

Deputy judge of the High Court ... The Oaths to be tendered by a Judge.

District Judge ... ..

Presiding Officer, Labour Tribunal ... ..

Magistrate ... ..

Adjudicator, Small Claims Tribunal ... ..

President, Lands Tribunal ... ..

Coroner ... ..

} The Oaths to be tendered by a Judge.

Justice of the Peace ... .. The Oaths to be tendered by a Magistrate.

*(Amended, 22 of 1973, s. 3; 79 of 1975, s. 40; 13 of 1980, s. 4 and 49 of 1983, s. 7)*