



# Promissory Oaths Act 1868

1868 CHAPTER 72 31 and 32 Vict

An Act to amend the Law relating to Promissory Oaths.

[31st July 1868]

**Modifications etc. (not altering text)**

- C1 Act extended (S.) [District Courts \(Scotland\) Act 1975 \(c. 20\), s. 11\(3\)](#)
- C2 This Act is not necessarily in the form in which it has effect in Northern Ireland
- C3 Preamble omitted under authority of [Statute Law Revision Act 1893 \(c. 14\)](#)
- C4 Act amended by [Mental Health Act 1983 \(c. 20, SIF 85\), s. 93\(3\)](#)
- C5 Act extended by [Courts and Legal Services Act 1990 \(c. 41, SIF 34, 37\), s. 76\(2\)](#)
- C6 Act restricted (E.W) (19.6.1997) by 1997 c. 25, **ss. 69, 74(1)** (with s. 73(1), Sch. 4 para. 27)
- C7 Act applied (6.5.1999) by 1998 c. 46, **s. 84(4)(a)** (with s. 126(3)-(11)); S.I. 1998/3178, art. 2(2), **Sch. 3**

**1 Short title.**

This Act may be cited for all purposes as: “The Promissory Oaths Act 1868.”

**PART 1**

OATHS TO BE CONTINUED

*Oath of Allegiance. Official and Judicial Oaths*

**2 Form of oath of allegiance.**

The oath in this Act referred to as the oath of allegiance shall be in the form following; that is to say,

“I, , do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, according to law. So help me God.”

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*Status: Point in time view as at 05/06/1999.*

*Changes to legislation: There are currently no known outstanding effects for the Promissory Oaths Act 1868. (See end of Document for details)*

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### 3 Form of official oath.

The oath in this Act referred to as the official oath shall be in the form following; that is to say,

“I, , do swear that I will well and truly serve Her Majesty Queen Victoria in the office of So help me God.”

### 4 Form of judicial oath.

The oath in this Act referred to as the judicial oath shall be in the form following; that is to say,

“I, , do swear that I will well and truly serve our Sovereign Lady Queen Victoria in the office of , and I will do right to all manner of people after the laws and usages of this realm, without fear or favour, affection or illwill. So help me God.”

### 5 Persons to take the oath of allegiance and official oath.

The oath of allegiance and official oath shall be tendered to and taken by each of the officers named in the first part of the schedule annexed hereto as soon as may be after his acceptance of office by the officer, and in the manner in that behalf mentioned in the said first part of the said schedule.

### [<sup>F1</sup>5A Taking of oaths by members of Scottish Executive

Where the official oath or oath of allegiance is required to be taken by any member of the Scottish Executive in accordance with section 84(4) of the Scotland Act 1998, it shall be tendered to him by the Lord President of the Court of Session at a sitting of the Court.]

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#### Textual Amendments

**F1** S. 5A and crossheading inserted (6.5.1999) by S.I. 1999/1042, art. 3, Sch. 1 para. 2(2)

### 6 Persons to take the oath of allegiance and judicial oath.

The oath of allegiance and judicial oath shall be taken by each of the officers named in the second part of the said schedule hereto [not later than 6 months after the coming into force of section 76 of the Courts and Legal Services Act 1990], . . . <sup>F2</sup>

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#### Textual Amendments

**F2** Words repealed by Statute Law Revision Act 1875 (c. 66)

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#### Modifications etc. (not altering text)

**C8** S. 6 modified by Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), s. 125(6), Sch. 19 para. 6

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## 7 Penalty on not taking required oath.

If any officer specified in the schedule hereto <sup>F3</sup>or any member of the Scottish Executive]declines or neglects, when any oath required to be taken by him under this Act <sup>F4</sup>[or section 84(4) of the Scotland Act 1998] is duly tendered, to take such oath, he shall, if he has already entered on his office, vacate the same, and if he has not entered on the same be disqualified from entering on the same; but no person shall be compelled, in respect of the same appointment to the same office, to take such oath . . . <sup>F5</sup>more times than one.

### Textual Amendments

- F3** Words in s. 7 inserted (6.5.1999) by S.I. 1999/1042, art. 3, **Sch. 1 para. 2(3)(a)**
- F4** Words in s. 7 inserted (6.5.1999) by S.I. 1999/1042, art. 3, **Sch. 1 para. 2(3)(b)**
- F5** Words repealed by Statute Law (Repeals) Act 1981 (c. 19), s. 1(1), **Sch. 1 Pt. VIII**

## 8 Form of oath of allegiance in this Act substituted for form in certain other Acts.

The form of the oath of allegiance provided by this Act shall be deemed to be substituted <sup>F6</sup>[in the case of the <sup>M1</sup>Clerical Subscription Act 1865, for the form of the oath of allegiance and supremacy therein referred to]; in the case of the <sup>M2</sup>Parliamentary Oaths Act 1866, for the form of the oath thereby prescribed to be taken and subscribed by members of Parliament on taking their seats; . . . <sup>F7</sup>; and all the provisions of the said Acts shall apply to the oath substituted by this section, in the same manner as if that form of oath were actually inserted in <sup>F6</sup>[each of]the said Acts in the place of the oath for which it is substituted.

### Textual Amendments

- F6** Words repealed (N.I.) by Statute Law Revision (Northern Ireland) Act 1980 (c. 59), s. 1, **Sch. Pt. III**
- F7** Words repealed by Statute Law Revision Act 1966 (c. 5)

### Marginal Citations

- M1** 1865 c. 122.
- M2** 1866 c. 19.

## 9 Prohibition of oath of allegiance except in accordance with Act.

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, . . . <sup>F8</sup>except the persons required to take the oath of allegiance by this Act <sup>F9</sup>[and the <sup>M3</sup>Clerical Subscription Act 1865], and the <sup>M4</sup>Parliamentary Oaths Act 1866, <sup>F10</sup>[and the Scotland Act 1998,]for one of such Acts, any Act of Parliament, charter, or custom to the contrary notwithstanding; and no person shall be required or authorized to take the oath of assurance in Scotland.

### Textual Amendments

- F8** Words repealed by Statute Law (Repeals) Act 1981 (c. 19), s. 1(1), **Sch. 1 Pt. VIII**
- F9** Words repealed (N.I.) by Statute Law Revision (Northern Ireland) Act 1980 (c. 59), s. 1, **Sch. Pt. III**
- F10** Words in s. 9 inserted (6.5.1999) by S.I. 1999/1042, art. 3, **Sch. 1 para. 2(4)**

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**Marginal Citations**

- M3 1865 c. 122.
- M4 1866 c. 19.

*Miscellaneous Provisions as to Oaths*

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

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

**11** .....<sup>F11</sup>

**Textual Amendments**

- F11 S. 11 repealed by [Administration of Justice Act 1977 \(c. 38\)](#), [Sch. 5 Pt. III](#)

**PART 2**

OATHS TO BE ABOLISHED

*Substitution of Declaration for Oaths*

**12 Regulations as to substitution of declarations for oaths.**

The following regulations shall be enacted with respect to the substitution of declarations for oaths; (that is to say,)

1. Where before the passing of this Act an oath was required to be taken by any person on or as a condition of accepting any employment or office in Her Majesty’s honourable band of Gentlemen at Arms or bodyguard of Yeomen of the Guard, or in any other department of Her Majesty’s household, in such case a declaration of fidelity in office shall be substituted, with the addition (in cases where it seems meet to Her Majesty by Order in Council to make such addition) of a declaration of secrecy to be observed by the declarant with respect to matters coming within his cognizance by reason of his employment or office:

[<sup>F12</sup>2. Where before the passing of this Act an oath was required to be taken by any person on or as a condition of accepting any office in or under a municipal corporation, or on or as a condition of admission to membership in or participation in the privileges of any municipal corporation, there shall be substituted for such oath, in the case of an office, a declaration that the declarant will faithfully perform the duties of his office, and in the case of admission to membership or participation in the privileges of a municipal corporation, a declaration that the declarant will faithfully demean himself as a member of or participator in the privileges of such corporation:]

3. Where before the passing of this Act an oath was required to be taken on or as a condition of admission to membership or fellowship or participation in

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the privileges of any guild, body corporate, society, or company, a declaration to the like effect of such oath shall be substituted: Provided, that if any two or more of the members of such guild, body corporate, society, or company, with the concurrence of the majority of the members present and voting at a meeting specially summoned for the purpose, object to any statement contained in such declaration on the ground of its relating to duties which by reason of change of circumstances have become obsolete, they may appeal to one of Her Majesty's Principal Secretaries of State to omit such statement, and the decision of such Secretary of State shall be final:

4. Where in any case not otherwise provided for by this Act or included within the saving clauses thereof an oath is required to be taken by any person on or as a condition of his accepting any employment or office, a declaration shall be substituted for such oath to the like effect in all respects as such oath:

5. The making a declaration in pursuance of this section instead of oath shall in all respects have the same effect as the taking the oath for which such declaration is substituted would have had if this Act had not passed.

#### Textual Amendments

**F12** S. 12, para. 2 repealed (N.I.) by Statute Law Revision (Northern Ireland) Act 1980 (c. 59), s. 1, Sch. Pt. III

### 13 Penalty on not making declaration required by this Act.

If any person required by this Act to make a declaration instead of an oath declines or neglects to make such declaration, he shall be subject to the same penalties and disabilities, if any, as he would have been subjected to for declining or neglecting to take the oath for which the declaration provided by this Act is substituted.

## PART 3

### *Saving Clause*

### 14 Not to affect matters herein stated.

Nothing in this Act contained shall affect—

1. [<sup>F13</sup>The <sup>M5</sup>Clerical Subscription Act 1865, or] the <sup>M6</sup>Parliamentary Oaths Act 1866, except in relation to the form of oath in manner herein-before mentioned:
2. The oath taken by privy councillors of the United Kingdom, . . . <sup>F14</sup>, with the exception that the form of the oath of allegiance prescribed by this Act shall be substituted for the oath of allegiance, supremacy, and abjuration now required to be taken by privy councillors:
3. The oath of homage taken by archbishops and bishops in the presence of Her Majesty:
4. The oath of canonical obedience to the bishop, or the oath of due obedience to the archbishop taken by bishops on consecration, and which oaths are reserved by the <sup>M7</sup>Clerical Subscription Act 1865:
5. Any oath taken by peers, baronets, or knights on their creation, with this exception, that where the oaths of allegiance, supremacy, or abjuration, or any two

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or one of such oaths, or any oath substituted for such oaths or any of them, are or is required to be taken by such peers, baronets, or knights, there shall be substituted for such oaths, or any two or one of them, the oath of allegiance prescribed by this Act:

- 6. Any oath required to be taken in the Army, the Marines, . . . <sup>F15</sup>.
- 7. The oath taken by aliens on being naturalized, . . . <sup>F16</sup>
- 8 . . . <sup>F17</sup>
- 9. Any power of substituting a declaration for an oath vested in the Treasury by the <sup>M8</sup>Statutory Declarations Act 1835.
- 10. Any oath required or authorized by Act of Parliament to be taken or made for the purpose of attesting any fact or verifying any account or document:
- 11 . . . <sup>F18</sup>
- 12. Any oath required to be taken by any juror, witness, or other person, in pursuance of any Act of Parliament or custom, as preliminary to or in the course of any civil, military, criminal, or other trial, inquest, or proceedings of a judicial nature, including any arbitration, or as preliminary to or in the course of any proceedings before a committee of either House of Parliament, or before any commissioner or other special tribunal appointed by the Crown.

**Textual Amendments**

- F13** Words repealed (N.I.) by Statute Law Revision (Northern Ireland) Act 1980 (c. 59), s. 1, **Sch. Pt. III**
- F14** Words repealed by Statute Law (Repeals) Act 1977 (c. 18), **Sch. 1 Pt. XIV**
- F15** Words repealed by Statute Law Revision Act 1966 (c. 5)
- F16** Words repealed by Statute Law Revision Act 1875 (c. 66)
- F17** S. 14(8) repealed by Statute Law Revision Act 1953 (2 & 3 Eliz. 2 c. 5)
- F18** S. 14(11) repealed by Statute Law (Repeals) Act 1977 (c. 18), **Sch. 1 Pt. XIV**

**Marginal Citations**

- M5** 1865 c. 122.
- M6** 1866 c. 19.
- M7** 1865 c. 122.
- M8** 1835 c. 62.

**15 Saving of powers of alteration hitherto exercised.**

Where a declaration has been substituted for an oath under this Act, any person, guild, body corporate, or society which before the passing of this Act had power to alter such oath, or to substitute another oath in its place, may exercise a like power with regard to such declaration.

**16** . . . . . <sup>F19</sup>

**Textual Amendments**

- F19** S. 16 repealed by Statute Law Revision Act 1875 (c. 66)

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## SCHEDULE

### Section 5.

#### FIRST PART

##### ENGLAND

###### Modifications etc. (not altering text)

- C9** Pt. I extended by [Board of Agriculture Act 1889 \(c. 30\)](#), [s. 8\(2\)](#), [Ministry of Agriculture and Fisheries Act 1919 \(c. 91\)](#), [s. 1](#); [S.I. 1955/554 \(1955 I, p. 1200\)](#), [art. 3\(1\)](#) and [Ministers of the Crown Act 1975 \(c. 26\)](#), [Sch. 1 para. 1](#)

First Lord of the Treasury. Chancellor of the Exchequer. Lord Chancellor. President of the Council. Lord Privy Seal.

Secretaries of State. . . .  
F20

President of the Board of Trade . . .  
F20

Lord Steward. Lord Chamberlain. Earl Marshal. Master of the Horse. . . .  
F20

Chancellor of the Duchy of Lancaster  
Paymaster General . . .  
F20

The Lord Keeper of the Great Seal. The Lord Keeper of the Privy Seal. The Lord Clerk Register. [<sup>F21</sup>The Advocate General for Scotland]. The Lord Justice Clerk.

The oath as to England is to be tendered by the Clerk of the Council, and taken in presence of Her Majesty in Council, or otherwise as Her Majesty shall direct.  
Scotland

The oath as to Scotland is to be tendered by the Lord President of the Court of Session at a sitting of the Court.  
Ireland  
F20  
. . .

###### Textual Amendments

- F20** Entries repealed by [S.I. 1964/488](#), [Sch. 1 Pt. II](#), [1970/1681](#), [Sch. 4](#), [Post Office Act 1969 \(c. 48\)](#), [Sch. 11 Pt. II](#) and [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), [Sch. 1 Pt. XIV](#)
- F21** Words in [Sch. Pt. I](#) substituted (6.5.1999) by [S.I. 1999/1042](#), [art. 4](#), [Sch. 2 Pt. I para. 1](#)

#### SECOND PART

###### Modifications etc. (not altering text)

- C10** Pt II of Schedule amended (E.W) (1.4.1996) by [S.I. 1996/674](#), [regs. 1\(2\), 2](#), [Sch. Pt. II](#), [para. 5\(2\)\(j\)](#)  
Pt II of Schedule amended (E.W) (1.4.1996) by [S.I. 1996/675](#), [regs. 1\(2\), 2](#), [Sch. Pt. II para. 7\(2\)\(j\)](#)
- C11** [Pt. II](#) extended by [City of London \(Courts\) Act 1964 \(c. IV\)](#), [s. 15](#) and [Courts Act 1971 \(c. 23\)](#), [s. 22\(1\)](#)

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- C12** Reference to Ireland to be construed as exclusive of Republic of Ireland: S.R. & O. 1923/405 (Rev. X, p. 298: 1923, p. 400), art. 2
- C13** Entries relating to the Lord Chief Justice and the Master of the Rolls repealed (E.W.) by [Supreme Court Act 1981 \(c.54, SIF 37\)](#), s. 152(4), [Sch. 7](#)
- C14** By [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [s. 93\(3\)](#) it is provided that this Act shall have effect as if the Officers named in the Second Part of the Schedule included the Master of the Court of Protection

## England

The Lord Chancellor of Great Britain.

The Lord Chief Justice.

The Master of the Rolls.

...<sup>F22</sup>

### Textual Amendments

- F22** Entries repealed by [Statute Law Revision Act 1893 \(c. 14\)](#) and [Statute Law \(Repeals\) Act 1977 \(c. 18\)](#), [Sch. 1 Pt. XIV](#)

...<sup>F22</sup>

The Recorder of London.

Justices of the Peace for counties and boroughs.

## Scotland

The Lord Justice-General and President of the Court of Session in Scotland, the Lord Justice Clerk of Scotland, the Judges of the Court of Session in Scotland [<sup>F23</sup>temporary judges of the Court of Session and High Court of Justiciary appointed under section 35(3) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990,]<sup>F24</sup>sheriffs principal of sheriffdoms], and Justices of the Peace ...<sup>F25</sup>

### Textual Amendments

- F23** Words in the second part of the Schedule inserted (S.) (1.4.1991) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c.40, SIF 76:2\)](#), s. 74, [Sch. 8 Pt. II para. 23 S.I.](#) 1991/822 art. 3Schedule
- F24** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), s. 4, [Sch. 1 para. 1](#)
- F25** Words repealed by [District Courts \(Scotland\) Act 1975 \(c. 20\)](#), [Sch. 2](#)

## Ireland

...<sup>F26</sup>

### Textual Amendments

- F26** Entries repealed by [Statute Law Revision Act 1953 \(2 & 3 Eliz. 2 c. 5\)](#)



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