

**DIPLOMATIC AND CONSULAR OFFICERS (OATHS AND FEES)
ACT, 1948**

41 of 1948

[3rd September, 1948.]

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"Prior to the passing of Independence Act, 1947. British diplomatic and consular officers performed notarial duties in respect of Indian nationals abroad and charged fees therefor and for other consular functions for which fees were leviable. They were also authorised to administer oaths. Legal authority for the exercise of these functions existed in Consular Salaries and Fees Act, 1891. and Commissioners for Oaths Act, 1889. passed by the English Parliament. On the passing of Independence Act, 1947. His Majesty's Government in the United Kingdom ceased to have any responsibility in the matter. It has therefore become advisable to provide statutory authority for the fixation. levy and accounting of fees to be charged by Indian diplomatic and consular officers abroad and for the administration of oaths and the taking of affidavits by them in much the same manner as was done by British diplomatic and consular officers prior to Independence Act, 1947. Hence, the present Bill." - Gazette of India, 1948, Pt. V, p. 461.

1. Short title :-

This Act may be called the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948.

2. Definitions :-

In this Act,-

(a) "consular officer" includes consul-general, consul, vice-consul, consular agent, pro- consul and any other person authorized ¹to perform the duties of consul-general, consul, vice-consul or consular agent;

(b) "diplomatic officer" means any ambassador, envoy, minister, charge d'affaires, or secretary of embassy or legation; and

(c) "prescribed" means prescribed by rules made under this Act. ²

[(d) * * *]

1. For authorising persons holding specified offices to perform duties of Consular Officer, see Gazette of India. 1952. Pt. I, S.2.p. 1 16. This notification as amended up to 1-1-1962 can be found in General Statutory Rules and Orders. Vol. IV, p. 473. See also S. Os. 2412 and 3042. Gaz. of Ind.. 1960, Pt. II. S. 3(ii), pp.2922 and 3541: S.Os. 414. 504, 1987 and 1988. Gaz. of Ind., 1961. Pt. U.S. 3(ii). pp. 488. 573 and 2030. S.Os. 3103, Gaz. of Ind., 1967, Pt. II. S. 3(ii), p. 3215.

2. Cl. (d), omitted by the Diplomatic and Consular Officers (Oaths and Fees) (Extension to Jammu and Kashmir) Act (2 of 1973). S. 2(h) (13-3-73).

3. Powers as to oaths and notarial acts abroad :-

(1) Every diplomatic or consular officer may, in any foreign country or place where he is exercising his functions, administer any oath and take any affidavit and also do any notarial act which any notary public may do within ¹[a State]; and every oath, affidavit and notarial act administered, sworn or done by or before any such person shall be as effectual as if duly administered, sworn or done by or before any lawful authority in ¹ [a State].

(2) Any document purporting to have affixed, impressed or subscribed thereon or thereto the seal and signature of any person authorized by this Act to administer an oath in testimony of any oath, affidavit or act, being administered, taken or done by or before him, shall be admitted in evidence without proof of the seal or signature being the seal or signature of that person, or of the official character of that person.

1. Substituted for "Part A States" and "any Part A State", respectively by 3 A.L.O.. 1956.

4. Punishment for offences under this Act :-

(1) Whoever swears falsely in any oath or affidavit taken or made in accordance with the provisions of this Act shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

(2) Whoever forges or fraudulently alters the seal or signature of any person authorised by or under this Act to administer an oath or tenders in evidence, or otherwise uses, any affidavit having any seal or signature so forged or counterfeited or fraudulently altered knowing the same to be forged, counterfeited or fraudulently altered shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

5. Trial of offences :-

Any offence under this Act may be inquired into, dealt with, tried and punished in ¹[any State] in which the person charged with the offence was apprehended or is in custody in the same manner and to the same extent as if the offence had been committed within the ² [State] where he was apprehended or is in custody.

1. Substituted for "any Part A or Part C State" by .1 A.L.O., 1956.

2. Substituted for "Province" by A.I.O., 1950

6. Power to prescribe fees :-

(1) The Central Government may, from time to time, prescribe the fees to be levied in respect of any matter or thing done by a diplomatic or consular officer in the execution of his office.

(2) All such fees shall be levied, accounted for and applied and may be remitted in such manner as may be prescribed.

(3) A diplomatic or consular officer shall not, save as may be provided by any rules made in this behalf, ask for or take any fee or reward for or on account of any act or thing, or service done, performed or rendered by him in the execution of his office.

7. Publication and issue of tables of fees :-

(1) Tables of the fees which may, for the time being, be levied under the rules shall be published in such manner and copies thereof shall be issued gratuitously to such persons as may be

prescribed.

(2) Every consular officer, and every diplomatic officer in any foreign country or place where there is no consular officer, shall keep exhibited in a conspicuous place in his office a copy of the table of fees to be levied under this Act and shall permit the same to be inspected by any person interested therein.

8. Power to make rules :-

(1) The Central Government may ¹[, by notification in the- official Gazette,] makes rules²to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe-

(a) the scale of fees leviable under this Act and the manner in which such fees shall be levied and collected;

(b) the remuneration, if any, payable to a diplomatic or consular officer in the execution of any of the duties vested in him by this Act;

(c) the registers to be kept and the returns to be made in pursuance of this Act: and

(d) the manner in which copies of tables of fees may be published and distributed.

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[(3) Every rule made under this Act shall be laid, as soon as may be after it is made. before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if. before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. Inserted by the Delegated Legislation Provisions (Amendment) Act (4 of 1986). S. 2 Sch. (15-5-86).

2. For the Diplomatic and Consular Officers (Fees) Rules. 1949. see No. 420-Con. dated 8-11-1949. published in Gazette of India.

1949, Pt. 1.p. 1554.as amended by No. 105-Pt. / 50dated 6-4-1950, published in ihid. 1950. Pt. 1. Section 1. p. 54, amended subsequently: by G.S.R. 296. dated 3-3-1959 (w.e.f. 1-4-1959): by G.S.R. 665, dated 18-6-1960 and G.S.R. 966, dated 24-7-1961; by G.S.R. 817(E)of 1976(w.e.f. 1-1-1977): by G.S.R. 922 of 1976: by G.S.R. 847 (E) of 1976.

3. Inserted by Act 2 of 1973. S. 3 (13-3-73).