



Validity of Oaths taken by Ministers

Why in News

During the oath-taking ceremony of the new government, the Chief Minister of Maharashtra with other ministers has altered the oath by invoking the names other than mentioned in the Constitution.

Constitutional Provisions

- **Article 164(3):** It states that before a Minister enters upon his office, the **Governor** shall administer to him the **oaths of office** and **of secrecy** according to the forms set out in the **Third Schedule**.
 - Article 164 makes it clear that the **text of the oath is sacrosanct**, and the person taking the oath has to read it out exactly as it is, in the given format.
- **Third Schedule:** It requires the taker of the oath to either **“swear in the name of God”** or to **“solemnly affirm”** to **“bear true faith and allegiance to the Constitution”**.
- **Role of the Governor:** If a person wanders from the text of the oath, it is the responsibility of the person administering the oath — in this instance, **the Governor** — to interrupt and ask the person being sworn in to read it out correctly.
 - Once Governor takes it as read, and the Secretary to the Governor has attested that the oath has been administered, it **cannot be legally challenged**.

Schedule Number	Subject Matter
First Schedule	Names of the States and Union Territories with their territorial jurisdiction.
Second Schedule	Provisions relating to the emoluments, allowances, privileges.
Third Schedule	Forms of Oaths or Affirmations.
Fourth Schedule	Allocation of seats in the Rajya Sabha to the states and the union territories.
Fifth	Provisions

Schedule	relating to the administration and control of scheduled areas and scheduled tribes.
Sixth Schedule	Provisions relating to the administration of tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram.
Seventh Schedule	Division of powers between the Union and the States in terms of List I (Union List), List II (State List) and List III (Concurrent List).
Eighth Schedule	Languages recognized by the Constitution.
Ninth Schedule	Acts and Regulations of the state legislatures dealing with land reforms and abolition of the zamindari system and of the Parliament dealing with other matters.
Tenth Schedule	Provisions relating to disqualification of the members of Parliament and State Legislatures on the ground of defection.
Eleventh Schedule	Specifies the powers, authority and responsibilities of

	Panchayats.
Twelfth Schedule	Specifies the powers, authority and responsibilities of Municipalities.

Instances of Deviation

- In **1990**, the oath by **Devi Lal as Deputy Prime Minister** was challenged as being unconstitutional as the Constitution provides for the provisions of Prime Minister and ministers' oath only.
 - The **Supreme Court upheld the oath as valid** and stated that describing a person as Deputy Prime Minister is descriptive only and such description does not confer on him any powers of Prime Minister.
 - It also ruled that the description of a minister as Deputy Prime Minister or any other type of ministers such as minister of state or deputy minister of which there is **no mention in the Constitution does not vitiate the oath** taken by him so **long as the substantive part of the oath is correct.**
- In **2012**, Azam Khan (then a member of Uttar Pradesh Legislative Assembly) had to retake his oath after he skipped the oath of office of a cabinet minister, and only took the oath of secrecy.

Source: IE

PDF Reference URL: <https://www.drishtias.com/printpdf/validity-of-oaths-taken-by-ministers>