

**CHAPTER 213****THE INDICTMENTS ACT**

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## Section

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**INDICTMENTS**

(21st May, 1927.)

**S.R.O.** 1/1927.  
22/1956.  
28/1956.  
18/1989.

1. This Act may be cited as the Indictments Act. **Short title.**
2. The rules contained in the Schedule with respect to indictments shall have effect as if enacted in this Act, but those rules may be added to, varied, or annulled by further rules made by the rule committee under this Act. **Rules as to indictments.**  
**Schedule.**
3. (1) There shall be established for the purposes of this Act a rule committee consisting of such persons as the Chief Justice may appoint. **Powers of rule committee.**

**Schedule.**

(2) The rule committee shall have power to make rules varying or annulling the rules contained in the Schedule and to make further rules with respect to the matters dealt with in those rules, and those rules shall have effect subject to any modifications or additions so made.

(3) (a) Any rules made by the rule committee shall not have any force or effect until they have been approved by Parliament, and when so approved shall have the same force and effect as if they were contained in an Act.

(b) Any such rules approved as aforesaid shall come into operation on the day appointed in such rules in that behalf or if no day is so appointed on such day as the Governor-General by proclamation appoints.

**General provisions as to indictments.**

**4.** (1) Every indictment shall contain, and shall be sufficient if it contains, a statement of the specific offence or offences with which the accused person is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge.

(2) Notwithstanding any rule of law or practice, an indictment shall, subject to the provisions of this Act, not be open to objection in respect of its form or contents if it is framed in accordance with the rules under this Act.

**Joinder of charges in the same indictment.**

**5.** Subject to the provisions of the rules under this Act, charges for more than one felony or for more than one misdemeanour, and charges for both felonies and misdemeanours, may be joined in the same indictment, but where a felony is tried together with any misdemeanour, the jury shall be sworn and the person accused shall have the same right of challenging jurors as if all the offences charged in the indictment were felonies.

**Orders for amendment of indictment, separate trial, and postponement of trial.**

**6.** (1) Where, before trial, or at any stage of a trial, it appears to the Court that the indictment is defective, the Court shall make such order for the amendment of the indictment as the Court thinks necessary to meet the circumstances of the case, unless, having regard to the merits of the case, the required amendments cannot be made without injustice.

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(2) Where an indictment is so amended, a note of the order for amendment shall be endorsed on the indictment, and the indictment shall be treated for the purposes of the trial and for the purposes of all proceedings in connection therewith as having been originally presented in the amended form.

(3) Where, before trial, or at any stage of a trial, the Court is of opinion that a person accused may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same indictment, or that for any other reason it is desirable to direct that the person should be tried separately for any one or more offences charged in an indictment, the Court may order a separate trial of any count or counts of such indictment.

(4) Where, before trial, or at any stage of a trial, the Court is of opinion that the postponement of the trial of a person accused is expedient as a consequence of the exercise of any power of the Court under this Act to amend an indictment or to order a separate trial of a count, the Court shall make such order as to the postponement of the trial as appears necessary.

(5) Where an order of the Court is made under this section for a separate trial or for the postponement of a trial—

(a) If such an order is made during a trial the Court may order that the jury are to be discharged from giving a verdict on the count or counts the trial of which is postponed or on the indictment, as the case may be; and

(b) The procedure on the separate trial of a count shall be the same in all respects as if the count had been found in a separate indictment, and the procedure on the postponed trial shall be the same in all respects (if the jury has been discharged) as if the trial had not commenced; and

(c) The Court may make such order as to admitting the accused person to bail, and as to the enlargement of recognizances and otherwise as the Court thinks fit.

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(6) Any power of the Court under this section shall be in addition to and not in derogation of any other power of the Court for the same or similar purposes.

**Savings and application.**

**7.** (1) Nothing in this Act or the rules thereunder shall affect the law or practice relating to the jurisdiction of a Court or the place where an accused person can be tried, nor prejudice or diminish in any respect the obligation to establish by evidence according to law any acts, omissions, or intentions which are legally necessary to constitute the offence with which the person accused is charged, nor otherwise affect the laws of evidence in criminal cases.

(2) The provisions of this Act relating to indictments shall apply to criminal informations in the High Court and inquisitions, and also to any plea, replication, or other criminal pleading, with such modifications as may be made by rules under this Act.

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SCHEDULE

RULES

**Short title.**

**1.** These rules may be cited as the Indictment Rules.

**Material, etc., for indictment.**

**2.** (1) An indictment may be on parchment or paper, and may be either written or type-written or printed, or partly written and/or partly type-written and/or partly printed.

(2) Figures and abbreviations may be used in an indictment for expressing anything which is commonly expressed thereby.

(3) An indictment shall not be open to objection by reason only of any failure to comply with this rule.

**Commencement of the indictment.**

**3.** (1) The commencement of the indictment shall be in the following form—

The Queen v A.B.

*In the Eastern Caribbean Supreme Court*

Antigua and Barbuda Circuit.

INDICTMENT BY THE DIRECTOR OF PUBLIC  
PROSECUTIONS OF ANTIGUA AND BARBUDA

A.B. is charged with the following offence [offences] —

(2) In the case of a criminal information the words Criminal Information by the Director of Public Prosecutions shall be substituted for Indictment by the Director of Public Prosecutions.

4. Charges for any offences, whether felonies or misdemeanours may be joined in the same indictment if those charges are founded on the same facts, or form or are a part of a series of offences of the same or a similar character.

**Joining of charges in one indictment.**

5. (1) A description of the offence charged in an indictment, or where more than one offence is charged in an indictment, of each offence so charged, shall be set out in the indictment in a separate paragraph called a count.

**Mode in which offences are to be charged.**

(2) A count of an indictment shall commence with a statement of the offence charged, called the statement of offence.

(3) The statement of offence shall describe the offence shortly in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the offence, and if the offence charged is one created by statute, shall contain a reference to the section of the statute creating the offence.

(4) After the statement of the offence, particulars of such offence shall be set out in ordinary language, in which the use of technical terms shall not be necessary:

Provided that where any rule of law or any statute limits the particulars of an offence which are required to be given in an indictment, nothing in this rule shall require any more particulars to be given than those so required.

(5) The forms set out in the appendix to the rules contained in the First Schedule to the Indictments Act (Imperial) 1915, or forms conforming thereto as nearly as may be *mutatis mutandis* shall be used in cases to which they are applicable, and in other cases forms to the like effect or conforming thereto as nearly as may be shall be used, the statement of offence and the particulars of offence being varied according to the circumstances in each case.

(6) Where an indictment contains more than one count the counts shall be numbered consecutively.

**Provisions as to statutory offences.**

**6.** (1) Where an enactment constituting an offence states the offence to be the doing or the omission to do any one of any different acts in the alternative, or the doing or the omission to do any act in any one of any different capacities, or with any one of any different intentions, or states any part of the offence in the alternative, the acts, omissions, capacities, or intentions, or other matters stated in the alternative in the enactment, may be stated in the alternative in the count charging the offence.

(2) It shall not be necessary, in any count charging a statutory offence, to negative any exception or exemption from or qualification to the operation of the statute creating the-offence.

**Description of property.**

**7.** (1) The description of property in a count in an indictment shall be in ordinary language and such as to indicate with reasonable clearness the property referred to, and if the property is so described it shall not be necessary (except when required for the purpose of describing an offence depending on any special ownership of property or special value of property) to name the person to whom the property belongs, or the value of the property.

(2) Where property is vested in more than one person, and the owners of the property are referred to in an indictment it shall be sufficient to describe the property as owned by one of those persons by name with others, and if the persons owning the property are a body of persons with a collective name, such as "Inhabitants", "Trustees", "Commissioners", or "Club", or other such name, it shall be sufficient to use the collective name without naming any individual. Any property of the Government may be described as "the property of Her Majesty."

**Description of persons.**

**8.** The description or designation in an indictment of the accused person, or of any other person to whom reference is made therein, shall be such as is reasonably sufficient to identify him, without necessarily stating his correct name, or his abode, style, degree, or occupation; and if, owing to the name of the person not being known, or for any other reason, it is impracticable to give such a description or designation such description or designation shall be given as is reasonably practicable in the circumstances, or such person may be described as "a person unknown".

**Description of document.**

**9.** Where it is necessary to refer to any document or instrument in an indictment, it shall be sufficient to describe it by any name or designation by which it is usually known, or by the purport thereof, without setting out any copy thereof.

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**10.** Subject to any other provisions of these rules, it shall be sufficient to describe any place, time, thing, matter, act, or omission whatsoever to which it is necessary to refer in any indictment, in ordinary language in such a manner as to indicate with reasonable clearness the place, time, thing, matter, act or omission referred to.

**General rules as to description.**

**11.** It shall not be necessary in stating any intent to defraud, deceive or injure to state an intent to defraud, deceive or injure any particular person where the statute creating the offence does not make an intent to defraud, deceive or injure a particular person an essential ingredient of the offence.

**Statement of intent.**

**12.** Any charge of a previous conviction of an offence shall be charged at the end of the indictment by means of a statement, that the person accused has been previously convicted of that offence at a certain time and place without stating the particulars of the offence.

**Charge of previous convictions, etc.**

**13.** It shall be the duty of the Registrar to supply to the accused person, on request, a copy of the indictment free of charge.

**Duty to furnish copy of indictment.**

**14.** The Interpretation Act, applies for the interpretation of these rules as it applies for the interpretation of any law.

**Interpretation. Cap. 224.**

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