

**BERMUDA STATUTORY INSTRUMENT
INDICTMENTS (PROCEDURE) RULES 1948**

*[made under section 485(4) of the Criminal Code [title 8 item 31] and
brought into operation on 15 April 1948]*

ARRANGEMENT OF RULES

1	Interpretation	6	Application; other requirements
2	Preferment of bill of indictment	7	Decision of Judge
3	Restriction on preferment during Session	8	Right to inspect depositions and obtain copies
4	Application for consent		
5	Contents and documents in support		

Interpretation

1 (1) In these Rules "depositions" means depositions taken before a magistrate under the Indictable Offences Act 1929 [*title 8 item 32*], and include the statement of the accused person and any document exhibited to such depositions:

Provided that any requirement of these Rules that an application should be accompanied by a copy of any depositions shall, as respects documents exhibited to those depositions, be satisfied if a copy of such parts only of the exhibits as are, in the opinion of the applicant, material, accompanies the application, and the application contains an express statement to that effect.

(2) Section 3 of the Criminal Code [*title 8 item 31*] shall apply for the purpose of the interpretation of these Rules as is applies for the purposes of the interpretation of that Act.

INDICTMENTS (PROCEDURE) RULES 1948

Preferment of bill of indictment

2 A bill of indictment shall be preferred before the Supreme Court, in pursuance of section 485 of the Criminal Code [*title 8 item 31*], by delivering the bill to the Registrar.

Restriction on preferment during Session

3 Where a person has not been committed for trial, a bill of indictment charging him with any offence shall not be preferred against him during a Regular or Special Criminal Session of the Court after the first day of that session except with the leave of the judge.

Application for consent

4 An application under section 485(2)(c) of the Criminal Code [*title 8 item 31*] for consent to the preferment of a bill of indictment by the judge shall be in writing, shall be signed by the applicant or by counsel in his behalf and shall be delivered to the Registrar.

Application; contents and documents in support

5 Every such application—

- (a) shall be accompanied by the bill of indictment which it is proposed to prefer and, unless the application is made by or on behalf of the Director of Public Prosecutions, shall also be accompanied by an affidavit by the applicant, or, if the applicant is a corporation, by an affidavit by some director or officer of the corporation, that the statements contained in the application are, to the best of the applicant's knowledge, information and belief, true; and
- (b) shall state whether or not any application has previously been made under these Rules and whether or not any proceedings have previously been taken under the Indictable Offences Act 1929 [*title 8 item 32*], and the result of any such application or proceedings.

[Rule 5(a) amended by 1999:8 s.2 & Sch 1 effective 1 April 1999]

Application; other requirements

6 (1) Where no proceedings have been taken under the Indictable Offences Act 1929 [*title 8 item 32*], the application shall state the reason why it is desired to prefer a bill without such proceedings having been taken, and

- (a) there shall accompany the application proofs of the evidence of the witnesses whom it is proposed to call in support of the charges; and
- (b) the application shall embody a statement that the evidence shown by the proofs will be available at the trial

and that the case disclosed by the proof is, to the best of the knowledge, information and belief of the applicant, substantially a true case.

(2) Where proceedings have been taken under the Indictable Offences Act 1929 [*title 8 item 32*], and the magistrate has refused to commit the accused person for trial, the application shall be accompanied by—

- (a) a copy of the depositions; and
- (b) proofs of any evidence which it is proposed to call in support of the charges so far as that evidence is not contained in the depositions,

and the application shall embody a statement that the evidence shown by the proofs and (except so far as may be expressly stated to the contrary in the application) the evidence shown by the depositions, will be available at the trial and that the case disclosed by the depositions and proofs is, to the best of the knowledge, information and belief of the applicant, substantially a true case.

Decision of Judge

7 (1) Unless the judge otherwise directs in any particular case, his decision on the application shall be signified in writing without requiring the attendance before him of the applicant or any of the witnesses, and if the judge thinks fit to require the attendance of the applicant or of any of the witnesses, their attendance shall not be in the open court.

(2) Unless the judge specially gives a direction to the contrary, where an applicant is required to attend as aforesaid, he may attend by counsel.

Right to inspect depositions and obtain copies

8 It shall be the duty of the Registrar or of any magistrate's clerk for the time being in possession of any depositions to give to any person desiring to make an application for leave to prefer a bill of indictment against the person who was accused when the depositions were taken, a reasonable opportunity to inspect the dispositions, and, if so required by him, to supply him, with copies of the depositions or any part thereof.

[Amended by:

1999 : 8]