1977 No. 191

CRIMINAL PROCEDURE

Indictment Rules (Northern Ireland) 1977

Made . . . . . *17th June* 1977

Coming into operation . . . *5th September* 1977

To be laid before Parliament

We, the Indictments Act Rule Committee, in exercise of the powers conferred on us by section 2 of the Indictments Act (Northern Ireland) 1945(a) as amended by article 14(1) of and Schedule 5 to the Northern Ireland (Modification of Enactments—No. 1) Order 1973(b) hereby make the following Rules:—

Citation and commencement

1. These Rules may be cited as the Indictment Rules (Northern Ireland) 1977 and shall come into operation on 5th September 1977.

Interpretation

2. In these Rules "the Act" means the Indictments Act (Northern Ireland) 1945 as amended; "committal proceedings" means proceedings before a magistrates' court conducting a preliminary investigation or preliminary enquiry; "depositions" means depositions taken before a magistrates' court under the Magistrates' Courts Act (Northern Ireland) 1964(c) or under the Children and Young Persons Act (Northern Ireland) 1968(d) and includes written statements tendered in evidence under section 3 of the Criminal Procedure (Committal for Trial) Act (Northern Ireland) 1968(e), any document exhibited to such depositions or statements and the statement of the accused;

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.

3. The Interpretation Act (Northern Ireland) 1954(f) shall apply to the interpretation of these Rules as it applies to a Measure of the Northern Ireland Assembly.

Material, etc. for indictments

4.—(1) An indictment shall be on durable paper, and may be produced by one of the following means, that is to say, printing, writing (which must be clear and legible) and typewriting otherwise than by means of a carbon, and may be produced partly by one of those means and partly by another or others of them.

(a) 1945 c. 16 (N.I.)
(b) S.I. 1973/2163 (1973 III, p. 7541)
(c) 1964 c. 21 (N.I.)
(d) 1968 c. 34 (N.I.)
(e) 1968 c. 32 (N.I.)
(f) 1954 c. 33 (N.I.)

(2) Each sheet on which an indictment is set out shall be 297 millimetres long and 210 millimetres wide, and if more than one sheet is required, the sheets shall be fastened together in book form.

(3) A proper margin not less than 25 millimetres wide shall be kept on the left-hand side of each sheet.

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

Form of an indictment

5. An indictment shall be in the form in the Appendix to these Rules.

Joining of charges in one indictment

6. Charges for any offences 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.

Mode in which offences are to be charged

7.—(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.

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

Provisions as to statutory offences

8.—(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

9.—(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 state 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 "Trustees", "Commissioners", or "Club" or other such name, it shall be sufficient to use the collective name without naming any individual.

Description of persons

10. 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 or undesirable to give such a description or designation, such description or designation shall be given as is reasonable in the circumstances, or such person may be described as "a person unknown".

Description of document

11. 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.

General rule as to description

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

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

Statement of intent

13. 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.

Averment of previous conviction

14. Any averment of a previous conviction of an offence shall be made at the end of the indictment by means of a statement that the person accused has been previously convicted of an offence at a certain time and place without stating the particulars of the offence.

Saving for section 33(3) of the Children and Young Persons Act (Northern Ireland) 1968

15. Nothing in these Rules shall affect the provisions of subsection (3) of section 33 of the Children and Young Persons Act (Northern Ireland) 1968.

Presentment of an indictment

16. An indictment shall be deemed to have been presented when it has been received in the office of the clerk of the Crown and peace.

Time for presentment

17.—(1) Subject to paragraph 2 of this rule, an indictment shall be presented not later than 11 a.m. on the day prior to the arraignment of the person accused therein.

(2) The requirement contained in paragraph (1) of this rule may be waived if—

(i) the accused consents to this course; and

(ii) the court gives leave.

Substitution or amendment of an indictment

18. Subject to section 5 of the Act, no substituted or amended indictment shall be presented without prior leave of the court.

Procedure on applications under section 2(2)(e) of the Grand Jury (Abolition) Act (Northern Ireland) 1969(g)

19. Every application under paragraph (*e*) of section 2(2) of the Grand Jury (Abolition) Act (Northern Ireland) 1969 to a judge of the Supreme Court or to a county court judge for leave to present an indictment shall—

(i) be in writing and signed by the applicant or his solicitor;

(ii) be accompanied by the indictment which it is proposed to present;

(iii) unless the application is made by or on behalf of the Director of Public Prosecutions for Northern Ireland, be accompanied by an affidavit by the applicant, or, if the applicant is a corporation, by an affidavit by a director or officer of the corporation, that the statements contained in the application are, to the best of the deponent's knowledge, information and belief, true;

(iv) state whether or not any application has previously been made, whether there have been any committal proceedings, and the result of any such application or proceedings; and

(v) be lodged in the office of the clerk of the Crown and peace at least eight days before the opening of the court at which the indictment is intended to be presented, or, in the case of an indictment intended to be presented at a county court, at least eight days before the opening day for the exercise of original criminal jurisdiction at the sittings of the court at which the indictment is intended to be presented.

20.—(1) Where there have been no committal proceedings, the application shall—

(*a*) state why it is desired to present an indictment without such proceedings;

(*b*) be accompanied by copies of the statements of the witnesses intended to be examined on behalf of the prosecution; and

(g) 1969 c. 15 (N.I.)