

## THE INDICTMENTS ACT

[1st December, 1921.]

Cap. 158.  
Acts  
42 of 1969  
3rd Sch.,  
31 of 2013  
2nd Sch.,  
5 of 2018.

1. This Act may be cited as the Indictments Act.

Short title.

2. In this Act—

Interpretation.

“the Court” means the Court before which any indictable offence is tried or prosecuted;

“rule” means a rule under this Act.

3. 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 Rules Committee of the Supreme Court pursuant to section 4 of the Judicature (Rules of Court) Act.

Rules in Schedule.

42/1969  
3rd Sch.

4.—(1) Every indictment shall contain, and shall be sufficient if it contains, a statement of the specific 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.

Indictments.

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

5. Subject to the provisions of the rules, 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

Procedure  
with respect  
to felonies  
and mis-  
demeanours.

and the person accused shall have the same right of challenging jurors as if all the offences charged in the indictment were felonies.

Amendment  
of indict-  
ment.

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, and may make such order as to the payment of any costs incurred owing to the necessity for amendment as the Court thinks fit.

(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 preferred 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 costs and as to admitting the accused person to bail, and as to the enlargement of recognizances and otherwise as the Court thinks fit.

(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.

7.—(1) Nothing in this Act or the rules 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. Jurisdiction.

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

(Section 3)

## SCHEDULE

## RULES

1. Material, *etc.*, for indictments—

- (1) An indictment may be on parchment or paper, and may be either written or printed, or partly written and partly printed.
- (2) Each sheet on which an indictment is set out shall be not more than twelve and not less than six inches in length, and not more than fourteen and not less than ten inches in width, and if more than one sheet is required, the sheets shall be fastened together in book-form.
- (3) A proper margin not less than two inches in width shall be kept on the left-hand side of each sheet.
- (4) Figures and abbreviations may be used in an indictment for expressing anything which is commonly expressed thereby.
- (5) There shall be endorsed on the back of an indictment the name of every witness examined or intended to be examined.
- (6) An indictment shall not be open to objection by reason only of any failure to comply with this rule.

L.N.  
210/1962.

## 2. Commencement of the indictment—

The commencement of the indictment shall be in the following form—

The Queen v. *A.B.*

Court of trial (*e.g.* In the Supreme Court for Jamaica, *or* In the Parish Court for the parish of \_\_\_\_\_).

It is hereby charged on behalf of Our Sovereign Lady the Queen:

*A.B.* is charged with the following offence—

3. Joining of charges in one indictment—Charges for any offences, whether felonies or misdemeanours, may be joined in the

SCHEDULE, *cont'd*

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 similar character, or are so connected as to form part of the same transaction, and such joinder shall be subject to the provisions set out in rule 3A. It shall be at the discretion of the prosecution to determine whether or not to join any offence pursuant to this rule, but the court may in any event make an order that any offence charged jointly with another offence be tried on a separate indictment if the court is of the opinion that—

5/2018  
S. 2(a).

- (a) there is a substantial risk of injustice if the offences are tried together; or
- (b) the administration of justice would be better served if the offences are tried separately.

## 3A. Trial of offences joined pursuant to rule 3—

5/2018  
S. 2(b).

- (1) Except in the case of murder for which sentence of death may be imposed, the offence of murder and any lesser offence may be tried together, on a single indictment, by a Judge sitting with a jury.
- (2) Where joined offences include offences that are triable by a Judge sitting with a jury and offences triable by a Judge sitting alone, the joined offences may be tried together, on a single indictment, by a Judge sitting with a jury.
- (3) Where joined offences include offences that are triable by a Judge of the Supreme Court (whether sitting with a jury or sitting alone) and offences that are triable in a Parish Court, the offences may be tried together, on a single indictment, in the Supreme Court, and—
  - (a) if any of those offences is triable by a Judge sitting with a jury, then that shall be the mode of trial for all of the offences; or
  - (b) if sub-paragraph (a) does not apply, then all of the offences shall be tried by a Judge sitting alone.

*INDICTMENTS**SCHEDULE, cont'd.*

- (4) Where the joined offences consist of offences arising under different laws or enactments and are each triable by a Judge sitting alone, all of those offences may be tried together, on a single indictment, in the Supreme Court by a Judge sitting alone.

4. Mode in which offences are to be charged—

- (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 so required.

- (5) The forms set out in the Appendix or forms conforming thereto as nearly as may be 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.

5. Provisions as to statutory offences—

*SCHEDULE, cont'd.*

- (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 offences 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.

**6. Description of property—**

- (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.

**7. Description of persons—**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,

## INDICTMENTS

SCHEDULE, *cont'd.*

such description or designation shall be given as is reasonably practicable in the circumstances, or such person may be described as "a person unknown".

8. Description of document—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.

9. General rule as to description—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, matter, act or omission referred to.

10. Statement of intent—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.

11. Charge of previous convictions, *etc.*—Any charge of a previous conviction of an offence or of being a habitual criminal shall be charged at the end of the indictment by means of a statement—in the case of a previous conviction that the person accused has been previously convicted of that offence at a certain time and place without stating the particulars of the offence, and in the case of a habitual criminal, that the offender is a habitual criminal.

12. Description of engraving—In an information or indictment for engravings or making the whole or any part of any instrument, matter or thing whatsoever, or for using or having the unlawful possession of any plate or other material upon which the whole or any part of any instrument, matter or thing whatsoever, shall have been engraved or made, or for having the unlawful possession of any paper upon which the whole or any part of any instrument, matter or thing whatsoever,



shall have been made or printed, it shall be sufficient to describe such instrument, matter or thing by any name or designation by which the same may be usually known, without setting out any copy or facsimile of the whole or any part of such instrument, matter or thing.

13. Description of money—In an information or indictment in which it shall be necessary to make any averment as to any money, or any note of the Bank of England, or any Bank of this Island, or any other bank or currency notes of the Government of Jamaica, it shall be sufficient to describe such money or bank or currency note simply as money, without specifying any particular coin or bank or currency note; and such allegation, so far as regards the description of the property, shall be sustained by proof of any amount of coin, or of any bank or currency note, although the particular species of coin of which such amount was composed or the particular nature of the bank or currency note shall not be proved; and in cases of embezzlement, and obtaining money or bank or currency notes by false pretences, by proof that the offender embezzled or obtained any piece of coin, or any bank or currency note, or any portion of the value thereof although such piece of coin or bank currency note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to any other person, and such part shall have been returned accordingly.

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## APPENDIX TO RULES

### FORMS OF INDICTMENT

#### 1.

##### *Statement of Offence*

Murder.

##### *Particulars of Offence*

A.B., on the                      day of                      , in the parish  
of                                      , murdered J.S.

#### 2.

##### *Statement of Offence*

Accessory after the fact to murder.

*Particulars of Offence*

*A.B.*, well knowing that one *H.C.* did on the \_\_\_\_\_ day of \_\_\_\_\_, in the parish of \_\_\_\_\_, murder *C.C.*, did on the \_\_\_\_\_ day of \_\_\_\_\_, in the parish of \_\_\_\_\_ and on other days thereafter receive, comfort, harbour, assist and maintain the said *H.C.*

3.

*Statement of Offence*

Manslaughter.

*Particulars of Offence*

*A.B.*, on the \_\_\_\_\_ day of \_\_\_\_\_, in the parish of \_\_\_\_\_, unlawfully killed *J.S.*

4.

*Statement of Offence*

Rape.

*Particulars of Offence*

*A.B.*, on the \_\_\_\_\_ day of \_\_\_\_\_, in the parish of \_\_\_\_\_, had carnal knowledge of *E.F.*, without her consent.

5.

*Statement of Offence*

## First Count

Wounding with intent, contrary to section\*

*Particulars of Offence*

*A.B.*, on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, wounded *C.D.*, with intent to do him grievous bodily harm, or to maim, disfigure or disable him, or to resist the lawful apprehension of him the said *A.B.*

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\*Insert section of Act.

*Statement of Offence*

Second Count

Wounding, contrary to section\*

*Particulars of Offence*

*A.B.*, on the                      day of                      , in the parish  
of                      , maliciously wounded *C.D.*

6.

*Statement of Offence*

Cruelty to a child, contrary to section\*

*Particulars of Offence*

*A.B.*, between the                      day of                      and the  
day of                      , at                      , being a person over  
the age of sixteen years having the custody, charge or care of *C.D.*,  
a child, ill-treated or neglected the said child, or caused or procured  
the said child to be ill-treated or neglected in a manner likely to cause  
the said child unnecessary suffering or injury to its health.

7.

*Statement of Offence*

Larceny, contrary to section\*

*Particulars of Offence*

*A.B.*, on the                      day of                      , at                      ,  
being clerk or servant to *M.N.*, stole from the said *M.N.* ten yards of  
cloth.

8.

*Statement of Offence*

Robbery with violence, contrary to section\*

*Particulars of Offence*

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\*Insert section of Act.

## INDICTMENTS

*A.B.*, on the                      day of                      , at                      ,  
robbed *C.D.*, of a watch, and at the time of or immediately before or  
immediately after such robbery did use personal violence to the said  
*C.D.*

9.

*Statement of Offence*

First Count

Larceny after a previous conviction.

*Particulars of Offence*

*A.B.*, on the                      day of                      , at                      ,  
stole a bag, the property of *C.D.*

*A.B.*, has been previously convicted of burglary on the  
day of                      , at                      .

*Statement of Offence*

Second Count

Receiving stolen goods, contrary to section\*

*Particulars of Offence*

*A.B.*, on the                      day of                      , at                      ,  
of                      , did receive a bag, the property of *C.D.*,  
knowing the same to have been stolen.

10.

*Statement of Offence*

Burglary and larceny, contrary to section\*

*Particulars of Offence*

*A.B.*, in the night of the                      day of                      ,  
at                      , did break and enter the  
dwelling-house of *C.D.*, with intent to steal therein, and did steal  
therein one watch, the property of *S.T.*, the said watch being of the  
value of twenty dollars.

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\*Insert section of Act.

**11.**

### Statement of Offence

**Sending threatening letter, contrary to section\***

### Particulars of Offence

A.B., on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, sent, delivered or uttered to or caused to be received by C.D., a letter accusing or threatening to accuse the said C.D. of an infamous crime with intent to extort money from the said C.D.

12.

### Statement of Offence

Obtaining goods by false pretences, contrary to section\*

### Particulars of Offence

A.B., on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, with intent to defraud obtained from S.P., five yards of cloth by falsely pretending that he, the said A.B., had been sent by J.S. to S.P. for the said cloth, and that he, the said A.B., was then authorized by the said J.S. to receive the said cloth on behalf of the said J.S.

13.

### Statement of Offence

**Conspiracy to defraud.**

### Particulars of Offence

A.B. and C.D., on the \_\_\_\_\_ day of \_\_\_\_\_, and  
on divers days between that day and the \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, at \_\_\_\_\_

conspired together with intent to defraud by means of an advertisement inserted by them, the said A.B., and C.D., in the H.S. newspaper, falsely representing that A.B. and C.D. were then carrying on a genuine business as jewellers at

and that they were then able to supply certain articles of jewellery to whomsoever would remit to them the sum of four dollars.

\*Insert section of Act.

## INDICTMENTS

14.

*Statement of Offence*

## First Count

Arson, contrary to section\*

*Particulars of Offence*

*A.B.*, on the                      day of                      , at                      ,  
maliciously set fire to a dwelling-house, one *F.G.* being therein.

*Statement of Offence*

## Second Count

Arson, contrary to section\*

*Particulars of Offence*

*A.B.*, on the                      day of                      , at                      ,  
maliciously set fire to a house with intent to injure or defraud.

15.

*Statement of Offences**A.B.*, arson, contrary to section\**C.D.*, accessory before the fact to same offence.*Particulars of Offences*

*A.B.*, on the                      day of                      , at                      ,  
set fire to a house with intent to injure or defraud.

*C.D.*, on the same day at                      , did counsel,  
procure and command the said *A.B.* to commit the said offence.

16.

*Statement of Offence*

Damaging trees, contrary to section\*

*Particulars of Offence*

*A.B.*, on the                      day of                      , in the parish

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\*Insert section of Act.

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[The inclusion of this page is authorized by L.N. 480/1973]

of \_\_\_\_\_, maliciously damaged a cedar tree there growing.

A.B. has been twice previously convicted of an offence under section\* \_\_\_\_\_, namely, at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_.

17.

*Statement of Offence*

First Count

Offence under section\*

*Particulars of Offence*

A.B., on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, displaced a sleeper belonging to the \_\_\_\_\_ railway, with intent to injure or endanger the safety of persons travelling upon the railway.

*Statement of Offence*

Second Count

Obstructing railway, contrary to section\*

*Particulars of Offence*

A.B., on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, by unlawfully displacing a sleeper belonging to the \_\_\_\_\_ railway, did obstruct or cause to be obstructed an engine or carriage using the said railway.

18.

*Statement of Offence*

First Count

Forgery, contrary to section\*

*Particulars of Offence*

A.B., on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, with intent to defraud, forged a certain will purporting to be the will of C.D.

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\*Insert section of Act.

## INDICTMENTS

*Statement of Offence*

## Second Count

Uttering forged document contrary to section\*

*Particulars of Offence*

A.B., on the                      day of                      , at  
 uttered a certain forged will purporting to be the will of C.D., knowing  
 the same to be forged and with intent to defraud.

19.

*Statement of Offence*

Uttering counterfeit coin, contrary to section\*

*Particulars of Offence*

A.B., on the                      day of                      , at                      ,  
 uttered a counterfeit 25 cents, knowing the same to be counterfeit.

20.

*Statement of Offence*

Uttering a counterfeit coin contrary to section\*

*Particulars of Offence*

A.B., on the                      day of                      , at                      ,  
 uttered a counterfeit 20 cents knowing the same to be counterfeit.  
 A.B., has been previously convicted of a misdemeanour under  
 section\*                      , on the                      day of                      ,  
 at                      .

21.

*Statement of Offence*

Perjury.

*Particulars of Offence*

A.B., on the                      day of                      , at                      ,  
 being a witness upon the trial of an action in the  
 Court of this Island, in which one                      , was

\*Insert section of Act.



plaintiff, and one \_\_\_\_\_, was defendant, knowingly  
 falsely swore that he saw one *M.N.* in the street called  
 Street, in \_\_\_\_\_, on the \_\_\_\_\_ day of  
 19 \_\_\_\_\_

22.

[Deleted by 31 of 2013, 2nd Sch.].

23.

[Deleted by 31 of 2013, 2nd Sch.].

24.

*Statement of Offences*

*A.B.*, undischarged bankrupt, obtaining credit contrary to section\*

*C.D.*, being accessory to same offence.

*Particulars of Offences*

*A.B.*, on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_,  
 being an undischarged bankrupt, obtained credit to the extent of  
 twenty-four dollars from *H.S.* without informing the said *H.S.* that he  
 then was an undischarged bankrupt.

*C.D.*, at the same time and place did aid, abet, counsel and procure *A.B.*  
 to commit the said offence.

25.

*Statement of Offence*

First Count

Falsification of accounts, contrary to section\*

*Particulars of Offence*

*A.B.*, on the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_,  
 being clerk or servant to *C.D.*, with intent to defraud, made or concurred  
 in making a false entry in a cash book belonging to the said *C.D.*,  
 his employer, purporting to show that on the said day \$200 had been  
 paid to *L.M.*

*Statement of Offence*

Second Count

Same as first count.

\*Insert section of Act.

## INDICTMENTS

*Particulars of Offence*

A.B., on the                      day of                      , at  
being clerk or servant to C.D., with intent to defraud, omitted or  
concurrent in omitting from or in a cash book belonging to the said  
C.D., his employer, a material particular, that is to say, the receipt on the  
said day \$100 from H.S.

26.

*Statement of Offence*

## First Count

Fraudulent conversion of property, contrary to section\*

*Particulars of Offence*

A.B., on the                      day of                      , at  
fraudulently converted to his own use and benefit certain property, that is to  
say \$200 entrusted to him by H.S., in order that he, the said A.B., might retain  
the same in safe custody.

*Statement of Offence*

## Second Count

Fraudulent conversion of property, contrary to section\*

*Particulars Of Offence*

A.B., on the                      day of                      , at  
fraudulently converted to his own use and benefit certain property, that is to  
say, the sum of \$400, received by him for and on account of L.M.

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\*Insert section of Act.