

PROJET DE LOI

ENTITLED

The Indictments (Guernsey) Law, 1950 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* Ordres en Conseil Vol. XIV, p. 323. See also the Magistrate's Court (Guernsey) Law, 2008 (No. XVIII of 2009).

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ARRANGEMENT OF SECTIONS

1. Rules as to indictments.
2. General provisions as to indictments.
3. Joinder of charges in the same indictment.
4. Orders for amendment of indictment, separate trial, and postponement of trial.
5. Saving and interpretation.

SCHEDULE Rules.

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The Indictments (Guernsey) Law, 1950

THE STATES, in pursuance of their Resolution of the 21st day of September, 1949, have approved the following provisions, which, subject to the sanction of His Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey: –

Rules as to indictments.

1. The rules contained in the Schedule to this Law with respect to indictments shall have effect as if enacted in this Law, but those rules may be added to, varied or amended by further rules made by Order of the Royal Court.

NOTE

The following cases have referred to this Law:

Law Officers of the Crown v. Whittaker (1987-88) 6.GLJ.67 (see also Court of Appeal Judgments, 1964-89, p. 375);

Afonso v. Law Officers of the Crown [2002] GLR N–6;

Craig Alan Dodd & Oliver Robert Butler v. Law Officers of the Crown (2015) (Unreported, Court of Appeal, 23rd July) (Guernsey Judgment No. 34/2015);

Neil Hastie v. Law Officers of the Crown (2015) (Unreported, Court of Appeal, 29th September) (Guernsey Judgment No 59/2015).

General provisions as to indictments.

2. (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 Law, not be open to objection in respect of its form or contents if it is framed in accordance with the rules under this Law.

Joinder of charges in the same indictment.

3. Subject to the provisions of the rules under this Law, charges for more than one felony or for more than one offence other than a felony, and charges for both felonies and offences other than felonies may be joined in the same indictment.

NOTE

The following case has referred to section 3:

Afonso v. Law Officers of the Crown [2002] GLR N–6.

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

4. (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.

(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 approved by the Royal Court sitting as an Ordinary Court, or by the Magistrate, as the case may be, in accordance with the procedure prescribed by Ordinance, 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 Law 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) 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 a postponed trial shall be the same in all respects as if the trial had not commenced, and
- (b) the Court may make such order as to costs, as to admitting the accused person to bail, 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.

NOTES

The following cases have referred to section 4:

Law Officers of the Crown v. Whittaker (1987-88) 6.GLJ.67 (see also Court of Appeal Judgments, 1964-89, p. 375);

Craig Alan Dodd & Oliver Robert Butler v. Law Officers of the Crown (2015) (Unreported, Court of Appeal, 23rd July) (Guernsey Judgment No. 34/2015).

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), the reference in this section to the "Magistrate" shall be construed as a reference to a Judge of the Magistrate's Court within the meaning of the 2008 Law, with effect from 1st September, 2009.

Saving and interpretation.

5. (1) Nothing in this Law or the rules thereunder shall affect the law or practice relating to the jurisdiction of the 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) In this Law, unless the context otherwise requires –

the expression "**the Court**" means the Royal Court,

"Indictment" means the acte d'accusation forming part of the criminal process of the Bailiwick of the Island of Guernsey.

NOTE

The Law received Royal Sanction on 31st March, 1950 and was registered on the Records of the Island of Guernsey and came into force on 22nd April, 1950.

SCHEDULE

Sections 1, 2

Rules

Material, etc., for indictments.

1. (1) An indictment shall be in writing on durable paper.

(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 the provisions of this rule.

Commencement of the indictment.

2. The commencement of the indictment shall be in the following form –

The Law Officers of the Crown v. A.B.

Before the Bailiff and Jurats of the Royal Court of Guernsey.

A.B. is charged with the following offence (offences): –

Joining of charges in one indictment.

3. Charges for any offences, whether felonies or offences other than felonies, 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.

4. (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 enactment, shall contain a reference to the article or section of the enactment 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 enactment 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.

Provision as to statutory offences.

5. (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.

6. (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.

Description of persons.

7. 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.

8. 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.

9. Subject to any other provisions of these rules, it shall be sufficient to describe any place, time, thing, matter, act or omission whatever 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.

Statement of intent.

10. 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.

Duty to furnish copy of indictment.

11. It shall be the duty of His Majesty's Greffier, after an accused person has been committed for trial, to supply to the accused person or his advocate a copy of the indictment free of charge.

Interpretation.

12. The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of these rules as it applies to the interpretation of an enactment.

Short title.

13. These rules may be cited as the Indictment (Guernsey) Rules, 1949, and these rules, together with any rules made under section two of this Law, may be cited together by such collective title as may be prescribed by the last mentioned rules.

NOTE

The following case has referred to the Schedule:

Neil Hastie v. Law Officers of the Crown (2015) (Unreported, Court of Appeal, 29th September) (Guernsey Judgment No 59/2015) (Rule 3).
