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 STATUTORY INSTRUMENTS
 

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1971 No. 2084 (L.51)

**CRIMINAL PROCEDURE, ENGLAND AND WALES**

**The Indictments (Procedure) Rules 1971**

*Made* . . . . . 20th December 1971

*Coming into Operation* . . . . . 1st January 1972

The Lord Chancellor, in exercise of the powers conferred upon him by section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933(a), hereby makes the following Rules :—

1. These Rules may be cited as the Indictments (Procedure) Rules 1971 and shall come into operation on 1st January 1972.

2. In these Rules—

“the appropriate officer” means such officer as may be designated for the purpose in question by arrangements made by or on behalf of the Lord Chancellor ;

“the Act” means the Administration of Justice (Miscellaneous Provisions) Act 1933 ;

“committal proceedings” means proceedings before a magistrates’ court acting as examining justices ;

“depositions” means depositions taken before justices under the Magistrates’ Courts Act 1952(b) or under the Children and Young Persons Act 1933(e) and includes written statements tendered in evidence under section 2 of the Criminal Justice Act 1967(d), 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 1889(e) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

4. Subject as hereinafter provided, a bill of indictment shall be preferred before the Crown Court by delivering the bill to the appropriate officer of the Crown Court :

Provided that where with the assent of the prosecutor the bill is prepared by, or under the supervision of, the appropriate officer it shall not be nec-

(a) 1933 c. 36.

(c) 1933 c. 12.

(e) 1889 c. 63.

(b) 1952 c. 55.

(d) 1967 c. 80.

essary for the bill to be delivered to the appropriate officer but as soon as it has been settled to his satisfaction it shall be deemed to have been duly preferred.

5. Where a defendant has been committed for trial, the bill of indictment must be preferred within 28 days of such committal or within such longer period as a judge of the Crown Court may allow.

6. An application under section 2(2)(b) of the Act for consent to the preference of a bill of indictment may be made to a judge of the High Court.

7. Every such application shall be in writing and shall be signed by the applicant or his solicitor.

8. 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 deponent's knowledge, information and belief, true; and

(b) shall state whether or not any application has previously been made under these Rules or any Rules revoked by these Rules and whether there have been any committal proceedings, and the result of any such application or proceedings.

9.—(1) Where there have been no committal proceedings, the application shall state the reason why it is desired to prefer a bill without such proceedings 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 proofs is, to the best of the knowledge, information and belief of the applicant, substantially a true case.

(2) Where there have been committal proceedings, and the justice or justices have refused to commit the accused 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.

(3) Where the accused has been committed for trial the application shall state why the application is made and shall be accompanied by 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, unless the depositions have already been transmitted to the judge to whom the application is made, shall also be accompanied by a copy of the depositions; and 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 depositions and proofs is, to the best of the knowledge, information and belief of the applicant, substantially a true case.

10. Unless the judge otherwise directs in any particular case, his decision on the application shall be signified in writing on the application without requiring the attendance before him of the applicant or of 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 open court.

Unless the judge gives a direction to the contrary, where an applicant is required to attend as aforesaid, he may attend by a solicitor or by counsel.

11. It shall be the duty of any person in charge 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 depositions and, if so required by him, to supply him with copies of the depositions or any part thereof.

12. The Indictments (Procedure) Rules 1933(a), the Indictments (Procedure) (Amendment) Rules 1964(b) and the Indictments (Procedure) (Amendment) Rules 1967(c) are hereby revoked.

Dated 20th December 1971.

*Hailsham of St. Marylebone, C.*

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(a) S.R. & O. 1933/745 (Rev. V, p. 347: 1933, p. 556).

(b) S.I. 1964/2002 (1964 III, p. 5065). (c) S.I. 1967/1734 (1967 III, p. 4656).

## EXPLANATORY NOTE

*(This Note is not part of the Rules.)*

These Rules revoke and replace the existing Indictments (Procedure) Rules to take account of the replacement of Assizes and Quarter Sessions by the Crown Court created by section 4 of the Courts Act 1971 (c.23). They set out the procedure for the preferment of bills of indictment and prescribe the period within which such bills may be preferred.