

No. 36 of 1968

An Ordinance relating to Indictments

[Assented to 18 June, 1968]

BE it ordained by the Legislative Council for the Northern Territory of Australia, in pursuance of the powers conferred by the *Northern Territory (Administration) Act* 1910-1968, as follows:—

1. This Ordinance may be cited as the *Indictments Ordinance* 1968. Short title
2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.* Commencement
3. In this Ordinance, unless the contrary intention appears— Definition

“the court” means the court before which an indictable offence is tried or prosecuted on indictment.
4. Nothing in this Ordinance— Savings
 - (a) affects the law or practice relating to the jurisdiction of a court or the place where an accused person can be tried; Cf. U.K. 5 & 6, Geo. 5, c.90, s.8.
 - (b) prejudices or diminishes 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; or
 - (c) otherwise affects the laws of evidence in criminal cases.
- 5.—(1.) An 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. General provisions as to indictments *ibid.* s.3.
 - (2.) Notwithstanding any rule of law or practice, an indictment shall, subject to the provisions of this Ordinance, not be open to objection in respect of its form or contents if it is framed in accordance with the provisions of this Ordinance.

* The date fixed was 3 July, 1968 (see *Northern Territory Government Gazette* No. 30 of 3 July, 1968, page 174).

Figures and abbreviations
ibid. First Sch. r.1.

6. Figures and abbreviations may be used in an indictment for expressing anything which is commonly expressed thereby.

Commencement of indictment
ibid. r.2.

7. The commencement of an indictment shall indicate the name of the person by whom it is presented and the authority of that person to present it.

Joinder of charges in the same indictment

ibid. s.4. & r.3.

8. 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 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

ibid. r.4.

9.—(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 offence, particulars of the offence shall be set out in ordinary language, in which the use of technical terms shall not be necessary.

(5.) Where a rule of law or an enactment limits the particulars of an offence which are required to be given in an indictment, nothing in this section shall require any more particulars to be given than those so required.

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

Provisions as to statutory offences
ibid. r.5.

10.—(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.

11.—(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.

Description
of property
ibid. r.6.

(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.

12. 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 persons
ibid. r.7.

13. 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.

Description
of document
ibid. r.8.

14. Subject to this Ordinance, it shall be sufficient to describe any place, time, thing, matter, act or omission whatsoever to which it is necessary to refer in an indictment, in ordinary language in such a manner as to indicate with reasonable clearness the place, time, thing, matter, act or omission referred to.

General rule
as to
description
ibid. r.9.

15. It shall not be necessary in stating an intent to defraud, deceive or injure to state an intent to defraud, deceive or injure a 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.

Statement
of intent
ibid. r.10.

16. In every indictment in which it is necessary to mention or make an averment as to any money or any note of any bank, it shall be sufficient to describe such money or bank-note simply as money, without specifying any particular coin or bank-note.

Statements
as to money

Statements
as to age

17 Where it is essential to constitute the offence that the person injured should have been under a certain age, that person shall be stated in every count of the indictment to be under that age.

Order for
amendment of
indictment

ibid. s.5.
ss (1.) & (2.)

18.—(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 connexion therewith as having been presented in the amended form.

Order for
separate trial

ibid. s.5.
ss. (3.)

19. Where, before trial or at any stage of a trial, the court is of the 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 the indictment.

Order for
postponement
of trial

ibid. s.5.
ss. (4.)

20. Where, before trial or at any stage of a trial, the court is of the 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 Ordinance 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.

Powers of the
court and
procedure for
separate or
postponed
trials

21. Where an order of the court is made under section 19 of this Ordinance for a separate trial or under section 20 of this Ordinance 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;

(b) the procedure on the separate trial of a count shall be the same in all respects as if the count had been 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

ibid. s.5.
ss. (5.)

- (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 recognisances and otherwise as the court thinks fit.

22 A power of the court under section 18, 19, 20 or 21 of this Ordinance shall be in addition to and not in derogation of any other power of the court for the same or similar purposes. Other powers not affected
