

Notice of Motion to seek LegCo's approval of Criminal Procedure (Appeal against Ruling of No Case to Answer) Rules

The Department of Justice today (December 4) gave notice to the Legislative Council (LegCo) of its intention to move a motion to seek the LegCo's approval of the Criminal Procedure (Appeal against Ruling of No Case to Answer) Rules at the LegCo meeting on January 8, 2025. The Rules were made by the Criminal Procedure Rules Committee under section 9 of the Criminal Procedure Ordinance (Cap. 221) on November 14, 2024. The Rules set out the relevant procedural matters for the new "no case to answer" appeal mechanism under the Criminal Procedure (Amendment) Ordinance 2023. The new appeal mechanism allows the prosecution to appeal against rulings of no case to answer made by the Court of First Instance (CFI) of the High Court in criminal trials with a jury.

A spokesman for the Department of Justice said that the new "no case to answer" appeal mechanism addresses the lacuna in the criminal appeal system due to the prosecution's inability to appeal against erroneous rulings of no case to answer made by judges of the CFI in jury trials. To facilitate its smooth operation, a new set of procedural rules has to be made for such appeals before the relevant provisions of the Amendment Ordinance come into effect.

Relevant stakeholders including the Law Society of Hong Kong, the Hong Kong Bar Association and the Legal Aid Department were consulted, and they welcomed the implementation of the Rules. The Department of Justice has also issued an information paper to the LegCo Panel on Administration of Justice and Legal Services in July this year to brief members of the Panel on the proposed draft rules.

Subject to the LegCo's approval of the Rules, the Department of Justice will bring the relevant provisions of the Amendment Ordinance and the Rules into operation as soon as practicable.