

Criminal Procedure (Amendment) Ordinance 2023 (Commencement) Notice gazetted

The Government published in the Gazette today (February 7) the Criminal Procedure (Amendment) Ordinance 2023 (Commencement) Notice (Commencement Notice). The new "no case to answer" appeal mechanism under the Criminal Procedure (Amendment) Ordinance 2023 (Amendment Ordinance) will come into operation on April 14, 2025.

The Criminal Procedure (Amendment) Bill 2023 was passed by the Legislative Council (LegCo) on July 12, 2023. Sections 4, 7 and 9 of, and Part 2 of the Schedule to, the Amendment Ordinance provide for a "no case to answer" appeal mechanism, which allows the prosecution to appeal against rulings of no case to answer made by the Court of First Instance of the High Court in criminal trials with a jury. The new appeal mechanism has since awaited enactment of the Criminal Procedure (Appeal against Ruling of No Case to Answer) Rules (Rules) before it commences.

The Rules, which set out the relevant procedural matters for the new appeal mechanism to facilitate its smooth operation in practice, were made by the Criminal Procedure Rules Committee under section 9 of the Criminal Procedure Ordinance (Cap. 221) on November 14, 2024. The Rules were approved by the LegCo on January 8, 2025.

With a view to bringing the new appeal mechanism into operation as soon as practicable, the Secretary for Justice, under section 1(3) of the Amendment Ordinance, has appointed April 14, 2025, as the day on which the relevant provisions come into operation. The Rules will come into operation on the same day.

A spokesman for the Department of Justice said, "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 Court of First Instance in jury trials and prevents possible miscarriage of justice."

The Commencement Notice will be tabled at the LegCo on February 12 for negative vetting.