
STATUTORY INSTRUMENTS

2023 No. 786

The Criminal Procedure (Amendment No. 2) Rules 2023

Amendments to the Criminal Procedure Rules

3. In Part 2 (Understanding and applying the rules; powers of authorised court officers)—
- (a) for the heading to the Part substitute “Understanding and applying the rules; powers and duties of court officers and justices’ legal advisers”;
 - (b) after rule 2.11 (Taking of statutory declarations by court officers) insert—

“JUSTICES’ LEGAL ADVISERS

Duties of justices’ legal adviser

2.12.—(1) This rule applies in relation to a magistrates’ court, including a youth court, that comprises a lay justice or lay justices.

(2) A justices’ legal adviser—

- (a) must provide the court with any legal advice that it needs to carry out its functions, whether the court asks for that advice or not, including advice about—
 - (i) questions of law,
 - (ii) questions of mixed law and fact,
 - (iii) matters of practice and procedure,
 - (iv) relevant judicial decisions that bind the court,
 - (v) the process to be followed to reach a decision,
 - (vi) the process to be followed when sentencing,
 - (vii) the range of penalties and orders available when sentencing and the matters to be taken into account, in accordance with any sentencing guideline that applies, and
 - (viii) any other matter relevant to the case before the court;
- (b) must allow the parties, if present, an opportunity to make representations to the court about that advice;
- (c) may ask questions of a party or witness on the court’s behalf to clarify representations and evidence;
- (d) if necessary must assist the court with the formulation and recording of reasons for its decisions; and
- (e) may make announcements on the court’s behalf, other than an announcement of—
 - (i) an allocation or sending decision,
 - (ii) an indication of likely sentence, or
 - (iii) a verdict or sentence.

- (3) To provide the legal advice required by paragraph (2)(a) a justices' legal adviser must—
- (a) if necessary, attend the members of the court outside the courtroom; and
 - (b) in that event, inform the parties, if present, of any such advice given there.
- (4) A justices' legal adviser must assist a party who has no legal representative—
- (a) to understand what the court requires and why;
 - (b) to provide information required by the court to prepare for trial or to carry out its other functions; and
 - (c) if necessary, to make representations to the court or to give evidence.
- (5) In performing the functions for which these Rules provide a justices' legal adviser—
- (a) must avoid the appearance of advocacy for a party;
 - (b) must adhere to the same principles that apply to courts of independence, impartiality, integrity, propriety, competence, diligence and ensuring fair treatment; and
 - (c) may consult with other justices' legal advisers.

[Note. Section 28 of the Courts Act 2003(1) provides for persons authorised by the Lord Chief Justice to give advice to justices of the peace about matters of law. Such a person may be authorised for that purpose only if appointed under section 2(1) of that Act and possessed of such qualifications as may be prescribed. Section 29 of the 2003 Act(2) provides that the Lord Chief Justice may give directions to such a person but that, apart from that, such a person is not subject to the direction of the Lord Chancellor or anyone else when exercising functions under section 28.

See also rule 2.2 (Definitions).

The following rules impose specific duties on a justices' legal adviser in addition to those listed in this rule—

- (a) rule 9.4 (duty of justices' legal adviser during allocation and sending for trial);
 - (b) rule 14.3 (duty of justices' legal adviser in proceedings about bail and custody time limits);
 - (c) rule 24.14 (duty of justices' legal adviser during trial and sentence in a magistrates' court);
 - (d) rule 30.2 ((duty of justices' legal adviser in proceedings about the enforcement of fines and other orders for payment);
 - (e) rule 35.4 (duty of justices' legal adviser on an application to a magistrates' court to state a case for the High Court); and
 - (f) rule 47.25 (duty of justices' legal adviser on an application to a magistrates' court for a search warrant).]
- (c) amend the table of contents correspondingly.

(1) 2003 c. 39; section 28 was substituted by section 3 of, and paragraphs 25 and 26 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).

(2) 2003 c. 39; section 29 was substituted by section 3 of, and paragraphs 25 and 26 of the Schedule to, the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33).