

SUBSIDIARY LEGISLATION 9.11

**COURT PRACTICE AND PROCEDURE AND
GOOD ORDER (CRIMINAL CODE)
RULES OF COURT**

11th November, 2008

LEGAL NOTICE 280 of 2008, as amended by Legal Notice 336 of 2008.

1. The title of these rules is the Court Practice and Procedure and Good Order (Criminal Code) Rules of Court. Title.

Part I - Postponement of Trials

2. (1) Only one application for the postponement of a trial by jury, on the ground of indisposition of counsel, may be granted. Postponement of a criminal trial.

(2) The Criminal Court, in dealing with any such application, shall appoint the Advocate for Legal Aid or another advocate to undertake the defence of the accused, should the advocate retained by the accused not appear on the day to which the trial shall be put off.

Part II - Maintenance of Good Order in the Courts of Justice

3. (1) No person shall, under the penalties laid down in article 990 of the Code of Organization and Civil Procedure - Maintenance of good order. Cap. 12.

- (a) except in such areas as may be designated for the purpose by the Director General (Courts) with the consent of the Chief Justice, expose for sale or sell any kind of food or other things within the precincts of the Courts of Justice, or, except in such areas as so designated, eat or partake of food or beverages within such precincts; or
- (b) smoke within the precincts of the Courts of Justice in such areas to which the public have access other than in such areas as may be designated for that purpose by the Director General (Courts) with the consent of the Chief Justice; or
- (c) vociferate, within the precincts of the Courts of Justice, in a manner to disturb the sittings of the court; or
- (d) keep any ringing mechanism of any mobile or cellular phone or any other similar device switched on within any hall where the court sits, during a sitting of the court or tribunal; or
- (e) bring, within the precincts of the Courts of Justice, any child under the age of thirteen years, except where such child has been summoned as a witness before a court or other tribunal sitting within the said precincts, or where such court or tribunal is of the opinion that the presence of the child is required in connection with

any proceedings before it, or as may otherwise be provided by the Director General (Courts) with the consent of the Chief Justice; or

- (f) enter within the precincts of the Courts of Justice without complying with the security procedures in force as established by the Director General (Courts); or
- (g) during the hearing of a case in any hall take, or attempt to take, any photograph or film by any means whatsoever, except when the taking of such photograph or film has been ordered or authorised by a court or tribunal in connection with any proceedings before it; or
- (h) take or attempt to take anywhere within the precincts of the Courts of Justice any photograph or film by any means whatsoever without the permission of the Director General (Courts) and the Chief Justice; or
- (i) except as provided for by law with the permission of the Director General and the Chief Justice take or attempt to take any voice recording.

Cap. 12.

(2) Where any act as is mentioned in sub-rule (1) occurs during the hearing of a case, the Judge or Magistrate, or in the case of a collegial court, the president of that court shall summarily proceed as provided in article 990 of the Code of Organization and Civil Procedure after hearing the person to whom the act is attributed; and in all other cases the procedure prescribed in article 68(3) of the said Code shall be followed.

Improper dress.

4. (1) Every court executive officer may refuse entry into the precincts of the Courts of Justice or into any courtroom to any person who, in his opinion, is not properly dressed:

Provided that where such person has been summoned to appear before a court or tribunal the said officer shall, before proceeding further, inform the Judge, Magistrate or member of the tribunal before whom that person was due to appear, and shall take instructions from the said Judge or Magistrate or member of the tribunal as to how he should proceed.

(2) The Director General (Courts) shall, from time to time, inform the general public as to the type of dress which is regarded as unacceptable within the precincts of the Courts of Justice.

Part III - Court Practice and Procedure concerning Hearings to be Held by Appointment

Hearings to be held
by appointment.

5. (1) The hearing of a charge, bill of indictment or other procedure shall, as far as possible, be by appointment for a given time as determined by the court.

(2) Where several charges, bills of indictment or other procedures are to be heard during the course of any sitting, the court shall stagger the hearing of the said charges, bills of indictment or other procedure at reasonable intervals to ensure that

the parties, and witnesses if any, do not all turn up at the same time.

Part IV - References to the Court of Justice
of the European Communities

6. (1) It shall be the responsibility of the court, not the parties, to settle the terms of the reference to the Court of Justice of the European Communities. The reference shall identify as clearly, succinctly and simply as the nature of the case permits the question to which the Maltese court seeks an answer. It is very desirable that language should be used which lends itself readily to translation.

References to the Court of Justice of the European Communities under Article 234 of the EC Treaty.

(2) The referring court shall in a single document scheduled to the order:

- (a) identify the parties and summarise the nature and history of the proceedings;
- (b) summarise the salient facts, indicating whether these are proved or admitted or assumed;
- (c) make reference to the rules of national law (substantive and procedural) relevant to the dispute;
- (d) summarise the contentions of the parties so far as relevant;
- (e) explain why a ruling of the Court of Justice of the European Communities is sought, identifying the provisions of Community law whose effect is in issue; and
- (f) formulate, without avoidable complexity, the question(s) to which an answer is requested.

(3) Where the document is in effect a decree, as will often be convenient, passages which are not relevant to the reference shall be omitted from the text scheduled to the order. Incorporation of appendices, annexes or enclosures as part of the document shall be avoided, unless the relevant passages lend themselves readily to translation and are clearly identified.

(4) The referring court shall ensure that the order of reference, when finalised, is promptly passed to the Registrar, Criminal Courts and Tribunals, so that it may be transmitted to the Court of Justice of the European Communities without avoidable delay.

(5) The title of the referring court shall also be clearly stated.

Part V - Wearing Apparel for Advocates, Legal Procurators,
and Members of a Disciplined Force

7. (1) Advocates appearing before any of the superior courts of criminal jurisdiction at the hearing of any charge, bill of indictment or other procedure shall wear a dark blue, charcoal grey or black suit or pin-striped trousers and black jacket, a white shirt with a black, grey or white tie or bow-tie and black gown. Lady advocates appearing before the said courts shall wear black or blue or charcoal grey suits, or a white blouse and a black skirt or trousers under a black gown. A Judge may for good reason dispense an advocate from wearing a gown.

Wearing apparel for advocates and legal procurators.
Amended by:
L.N. 336 of 2008.

(2) Any advocate not complying entirely with these requirements shall not have the right of audience.

(3) Advocates and lady advocates appearing before any of the inferior courts of criminal jurisdiction shall comply with the provisions of sub-rule (1) but shall be dispensed from the need to wear a gown.

(4) The provisions of sub-rule (3) shall apply, *mutatis mutandis*, to legal procurators.

(5) (a) Members of a disciplined force appearing before any of the superior courts of criminal jurisdiction in the course of the exercise of their duties or in connection with their duties, shall wear their normal uniform. If such uniform includes a jacket or a tunic, this is also to be worn. Commissioned and gazetted officers shall always wear their jacket or tunic.

(b) Other than for gazetted police officers conducting prosecutions, members of a disciplined force appearing before any of the Inferior Courts in the course of the exercise of their duties or in connection with their duties, shall wear their normal uniform or other apparel as they are authorised to wear in the course of the performance of their normal duties.

(c) The court may dispense such a member from wearing a uniform.

Part VI- Leave of Absence

Leave of absence.

8. (1) Except where a Judge is away from Malta on a visit, or to attend a seminar, conference or other similar meeting, as approved by the Chief Justice or by the Judicial Studies Committee, he shall apply to the Senior Administrative Judge for leave of absence, including where necessary leave to be away from Malta, at least three days before such leave is required. The Senior Administrative Judge shall, before granting such leave, ensure that adequate arrangements have been made for urgent matters, which may arise in the court to which that Judge is assigned, to be dealt with by another Judge and, where the Judge seeking such leave ordinarily sits in a collegial court, the Senior Administrative Judge shall consult with the president of that court.

Cap. 9.

(2) Without prejudice to the provisions of article 547(2) of the Criminal Code, except where a Magistrate is away from the Islands on a visit, or to attend a seminar, conference or other similar meeting, as approved by the Chief Justice or by the Judicial Studies Committee, he shall apply to the Senior Magistrate for leave of absence, including where necessary leave to be away from Malta, at least three days before such leave is required. The Senior Magistrate shall, before granting such leave, ensure that adequate arrangements have been made for urgent matters, which may arise in the court to which that Magistrate is assigned, to be dealt with by another Magistrate.

(3) The provisions of the foregoing sub-rules, shall, *mutatis*

mutandis, apply to the Senior Administrative Judge and the Senior Magistrate, so however that in their case they shall apply to the Chief Justice.
