

立法會
Legislative Council

LC Paper No. CB(3) 131/08-09

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Tel : 2869 9205

Date : 11 November 2008

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 3 December 2008

**Proposed resolutions under
the Criminal Procedure Ordinance
and the Coroners Ordinance**

I forward for Members' consideration two proposed resolutions which the Chief Secretary for Administration will move at the Council meeting of 3 December 2008 under the Criminal Procedure Ordinance and the Coroners Ordinance relating to the following subsidiary legislation respectively:

- (a) the Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2008 (in **Appendix I**); and
- (b) the Coroners (Witnesses' Allowances) (Amendment) Rules 2008 (in **Appendix II**).

The President has directed that "it be printed in the terms in which it was handed in" on the Agenda of the Council.

2. The speeches, in both English and Chinese versions, which the Chief Secretary for Administration will deliver when moving the proposed resolutions, are also attached.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

CRIMINAL PROCEDURE ORDINANCE

RESOLUTION

(Under section 9B of the Criminal Procedure Ordinance (Cap. 221))

RESOLVED that the Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2008, made by the Criminal Procedure Rules Committee on 27 October 2008, be approved.

**CRIMINAL PROCEDURE (WITNESSES'
ALLOWANCES)(AMENDMENT)
RULES 2008**

(Made by the Criminal Procedure Rules Committee under section 9B of
the Criminal Procedure Ordinance (Cap. 221) subject to the approval
of the Legislative Council)

1. Commencement

These Rules shall come into operation on a day to be appointed by the
Chief Justice by notice published in the Gazette.

2. Allowances for professional witnesses

(1) Rule 3(1) of the Criminal Procedure (Witnesses' Allowances)
Rules (Cap. 221 sub. leg. B) is amended by repealing "\$1,690" and substituting
"\$2,170".

(2) Rule 3(2) is amended by repealing "\$845" and substituting
"\$1,085".

3. Allowances for expert witnesses

(1) Rule 4(1) is amended by repealing "\$1,690" and substituting
"\$2,170".

(2) Rule 4(2) is amended by repealing "\$845" and substituting
"\$1,085".

**4. Allowances for loss of remuneration or
expenses incurred**

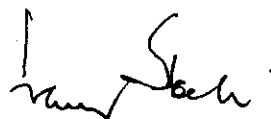
(1) Rule 5(1) is amended by repealing "\$280" and substituting "\$360".

(2) Rule 5(2) is amended by repealing "\$140" and substituting "\$180".

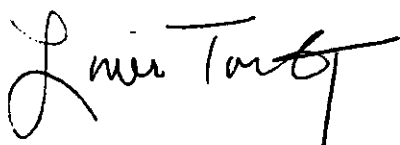
Made this 27th day of October 2008.



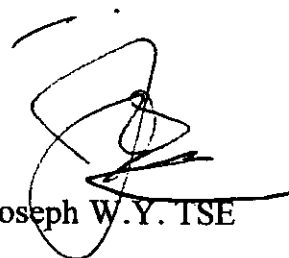
The Hon. Mr. Justice MA
Chief Judge of the High Court



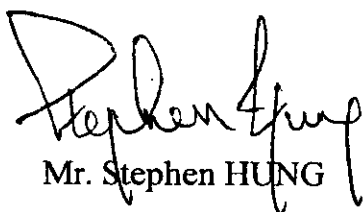
The Hon. Mr. Justice STOCK



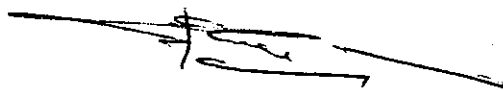
The Hon. Mr. Justice TONG



Mr. Joseph W.Y. TSE



Mr. Stephen HUNG



Mr. John READING



Mr. Thomas E. KWONG



Ms. Betty KWAN
Secretary

Explanatory Note

These Rules amend the Criminal Procedure (Witnesses' Allowances) Rules (Cap. 221 sub. leg. B) to increase the maximum rates of allowances that may be allowed in respect of the following classes of witnesses in criminal proceedings before any court –

- (a) a witness practising any of the specified professions and attending to give professional evidence;
- (b) an expert witness attending to give expert evidence;
- (c) a witness attending to give evidence (other than professional or expert evidence).

(Translation)

**Speech by the Chief Secretary for Administration
at the meeting of the Legislative Council on 3 December 2008**

Criminal Procedure Ordinance (Cap. 221)

Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2008

Mr President,

I move that the First Resolution standing in my name on the agenda be passed. This motion aims to seek the approval of the Legislative Council for the Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2008 made by the Criminal Procedure Rules Committee under section 9B of the Criminal Procedure Ordinance.

2. At present, the maximum allowance payable to ordinary witnesses in criminal proceedings is \$280 for each day or \$140 for not exceeding four hours. The maximum allowance for professional or expert witnesses is higher, at \$1,690 for each day or \$845 for not exceeding four hours.

3. Under the adjustment mechanism approved by the Finance Committee of the Legislative Council, changes to the rate of allowance for ordinary witnesses would be made in accordance with the movements in the median monthly earnings of employees (MMEE) in Hong Kong while those for professional or expert witnesses would be made in accordance with the changes in the mid-point salary of a Medical and Health Officer. The Finance Committee also delegated the authority to approve relevant adjustments to the Secretary for Financial Services and the Treasury (SFST).

4. The existing rates of allowances have been adopted since early 1996. The Judiciary Administration has reviewed the rates of allowances earlier this year. Taking into account the movements in the MMEE from the first quarter of 1995 to the second quarter of 2008 and the mid-point salary of a Medical and Health Officer from 1 April 1995 to 1 April 2008, JA proposes and SFST approves to increase the maximum

(Translation)

rate of allowance for an ordinary witness from \$280 to \$360 for each day and from \$140 to \$180 for not exceeding four hours. For professional or an expert witness, the maximum rate of allowance would be increased from \$1,690 to \$2,170 for each day and from \$845 to \$1,085 for not exceeding four hours. These adjustments aim to maintain the real value of the rates of allowances to minimise any financial loss suffered by members of the public testifying as witnesses.

5. The Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2008 seeks to implement the new rates of allowances. I invite Members to approve the Resolution. Thank you.

CORONERS ORDINANCE

RESOLUTION

(Under section 54 of the Coroners Ordinance (Cap. 504))

RESOLVED that the Coroners (Witnesses' Allowances) (Amendment) Rules
2008, made by the Chief Justice on 22 October 2008, be approved.

CORONERS (WITNESSES' ALLOWANCES) (AMENDMENT) RULES 2008

(Made by the Chief Justice under section 54 of the Coroners Ordinance
(Cap. 504) subject to the approval of the Legislative Council)

1. Commencement

These Rules shall come into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.

2. Allowances for professional witnesses

(1) Rule 3(1) of the Coroners (Witnesses' Allowances) Rules (Cap. 504 sub. leg. E) is amended by repealing "\$1,690" and substituting "\$2,170".

(2) Rule 3(2) is amended by repealing "\$845" and substituting "\$1,085".

3. Allowances for expert witnesses

(1) Rule 4(1) is amended by repealing "\$1,690" and substituting "\$2,170".

(2) Rule 4(2) is amended by repealing "\$845" and substituting "\$1,085".

4. Allowances for loss of remuneration or expenses incurred

(1) Rule 5(1) is amended by repealing "\$280" and substituting "\$360".

(2) Rule 5(2) is amended by repealing "\$140" and substituting "\$180".

Chief Justice

22nd October 2008

Explanatory Note

These Rules amend the Coroners (Witnesses' Allowances) Rules (Cap. 504 sub. leg. E) to increase the maximum rates of allowances that may be allowed in respect of the following classes of witnesses at inquests under the Coroners Ordinance (Cap. 504) –

- (a) a witness practising any of the specified professions and attending to give professional evidence;
- (b) an expert witness attending to give expert evidence;
- (c) a witness attending to give evidence (other than professional or expert evidence).

(Translation)

**Speech by the Chief Secretary for Administration
at the meeting of the Legislative Council on 3 December 2008**

Coroners Ordinance (Cap. 504)

Coroners (Witnesses' Allowances) (Amendment) Rules 2008

Mr President,

I move that the Second Resolution standing in my name on the agenda be passed. This motion aims to seek the approval of the Legislative Council for the Coroners (Witnesses' Allowances) (Amendment) Rules 2008 made by the Chief Justice under the Coroners Ordinance.

2. At present, the maximum rates of allowances payable to witnesses in coroners' inquests are the same as those for witnesses in criminal proceedings. The adjustment mechanism approved by the Finance Committee of the Legislative Council is also the same as that for the allowances for witnesses under the Criminal Procedure (Witnesses' Allowances) Rules. Following a review conducted earlier this year, the Judiciary Administration proposes, and the Secretary for Financial Services and the Treasury approves, to increase the maximum rate of allowance for ordinary witnesses from \$280 to \$360 for each day and from \$140 to \$180 for not exceeding four hours. For professional or expert witnesses, the maximum rate of allowance would be increased from \$1,690 to \$2,170 for each day and from \$845 to \$1,085 for not exceeding four hours.

3. The Coroners (Witnesses' Allowances) (Amendment) Rules 2008 seeks to implement the new rates of allowances. I invite Members to approve the Resolution. Thank you.