

立法會
Legislative Council

LC Paper No. LS5/09-10

**Paper for the House Committee Meeting
on 6 November 2009**

**Legal Service Division Report on
Proposed Resolution under section 9A
of the Criminal Procedure Ordinance (Cap. 221)**

The Secretary for Home Affairs (the Secretary) has given notice to move a motion on 11 November 2009 to seek the Legislative Council's approval of the Legal Aid in Criminal Cases (Amendment) Rules 2009 (the Amendment Rules) made by the Criminal Procedure Rules Committee under section 9A of the Criminal Procedure Ordinance (Cap. 221) on 13 October 2009.

2. The fees payable to solicitors or counsel in private practice engaged to undertake litigation work in criminal cases on behalf of the Legal Aid Department (the fees) are prescribed in Rule 21(1) of the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg. D) (the principal Rules). The Amendment Rules seek to adjust the fees upwards by 8.3%.

3. According to the draft speech of the Secretary, the fees prescribed in Rule 21(1) of the principal Rules are also adopted by the Department of Justice in engaging lawyers in private practice to appear for the Government in criminal cases. Fees payable to duty lawyers for providing legal representation under the Duty Lawyer Scheme follow the same scale. The proposed fees adjustment is the result of the latest biennial review of the fees to take account of, inter alia, changes in consumer prices during the reference period from July 2006 to July 2008.

4. When the Administration briefed the Panel on Administration of Justice and Legal Services at its meeting on 22 June 2009 on the latest progress of the Administration's discussion with the Law Society of Hong Kong on the level of fees for solicitors handling criminal legal aid cases, the Administration also informed the Panel of the proposed fees adjustment, the details of which are set out in Enclosure B to the paper "*Review of Criminal Legal Aid Fees System*" issued by the Administration to the Panel in June 2009 (LC Paper No. CB(2)1904/08-09(03)). Members of the Panel raised no query on the proposal.

5. No difficulties relating to the legal and drafting aspects of the Amendment Rules have been identified.

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