

Appendix 1 to LC Paper No. CB(2)2105/09-10(01)

Appendix 1 to Hong Kong Bar Association Submission of 20th July 2010

Proposed Amendments to the LEGAL AID ORDINANCE CAP. 91

1. Amending the FEL for OLAS, Amended Section 5 (1) to read as follows:- “Legal Aid to which this section applies shall, subject to and in accordance with this Ordinance, be available for any person whose financial resources do not exceed \$175,800, \$350,000, for the civil proceedings mentioned in Part I of Schedule 2, except proceedings mentioned in Part II of that Schedule.”
2. Amending the FEL for SLAS, Amended Section 5A(b) to read as follows:- “whose financial resources exceed ~~\$165,700~~ \$350,000 but do not exceed ~~\$488,400~~ \$3,000,000.”
3. Amending the scope of SLAS, The Amended Part I of Schedule 3 to read as follows :-
 - “1. In the Court of First Instance, the Court of Appeal **and the Court of Final Appeal**, civil proceedings brought by the aided person for damages in a claim arising from personal injuries or the death of, any person and proceedings incidental to such proceedings including the defence of any counterclaim.
 2. In the District Court, civil proceedings brought by the aided person for damages in a claim arising from personal injuries to, or the death of, any person where the claim exceeds \$60,000 or where, in the opinion of the Director, the claim is likely to exceed \$60,000 and proceedings incidental to such proceedings including the defence to any counterclaim.
 3. In the District Court, proceedings brought by the aided person under the Employees’ Compensation Ordinance (Cap. 282)
 4. In the Court of First Instance, the Court of Appeal, **the Court of Final Appeal**, or District Court , civil proceedings brought by the aided person for damages :
 - (a) for medical (**including the provision of ancillary medical services**), dental or legal professional negligence **and/or any other type of professional negligence, such as the services provided by accountants, estate agents, surveyors, and engineers;**
 - (b) **in a claim by any person against financial institutions and insurance companies concerning financial products or the provision of financial services; this includes any other institution selling or offering for sale financial products or services whether the same be registered under the Securities and Futures Ordinance or not; and/or against persons who are so registered;**

- (c) in a claim by any person against insurance companies concerning insurance policies;
- (d) in a claim by any person against property developers concerning purchase of newly constructed premises; including claims arising from the use or occupation of defective premises, where the aid person suffers personal and/or financial loss arising therefrom;
- (e) in a claim against trust management companies;
- (f) in a claim arising from the sale of, alteration and repair of goods, and in the provision of goods and services;
- (g) in a claim arising from loss or damage caused to an aided person who is a shareholder in a publicly listed company on the Hong Kong Stock Exchange in respect of loss or damage to his interests as a minority shareholder therein as provided under the Companies Ordinance Cap. 2, or otherwise under the law;
- (h) in any claim brought by the aided person against his employer whom insolvency proceedings have been instituted or are being instituted by another person or persons;
- (i) in any group or class action involving, disasters, environmental damage, consumer or product liability, claims by employees against employers where insolvency proceedings have been instituted or are being instituted, and building management disputes;
- (j) in any other group or class action in which in the opinion of the Director of Legal Aid a certificate should be given to persons to pursue rights,

where in the opinion of the Director, the claim is likely to exceed \$60,000 including the defence of any counterclaim.”

5. Draft amendment to reduce undue hardship to persons approaching retirement age, is suggested as a new Section 8C of the Legal Aid (Assessment of Resources and Contributions) Regulations, Cap.91.

“Resources of persons aged 50 years and above.

For the purposes of determining the financial resources of a person aged 50 years and above at the date of application, the amount of savings or assets to be disregarded will be \$350,000 in respect of applicants for ordinary legal aid under Section 5 of the Ordinance and \$3,000,000 in respect of applicants for supplementary legal aid under Section 5A of the Ordinance.”

Hong Kong Bar Association
20th July 2010

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