

**For information
on 10 July 2012**

**Legislative Council Panel on
Administration of Justice and Legal Services**

Further Expansion of the Supplementary Legal Aid Scheme

PURPOSE

This paper informs Members of the progress of legislative amendments to the Legal Aid Ordinance (“LAO”) (Cap. 91) in respect of the expansion of the Ordinary Legal Aid Scheme (“OLAS”) and the Supplementary Legal Aid Scheme (“SLAS”), and reports the way forward on other proposals not supported for inclusion in SLAS at this stage.

PROGRESS OF LEGISLATIVE AMENDMENTS

2. On 7 March 2012, the Administration gave notice to move a proposed Resolution under section 7(b) of the LAO to seek the approval of the Legislative Council (“LegCo”) to amend Schedules 2 and 3 to LAO to –
 - (a) expand the scope of OLAS to cover monetary claims in derivatives of securities, currency futures or other futures contracts when fraud, misrepresentation or deception is involved in respect of the sale;
 - (b) expand the scope of SLAS to cover claims of the following categories with claim amounts exceeding \$60,000 –
 - (i) professional negligence claims against certified public accountants (practicing), registered architects, registered professional engineers, registered professional surveyors, registered professional planners, authorised land surveyors, estate agents, and registered landscape architects;
 - (ii) negligence claims against insurers or their intermediaries in respect of the taking out of personal insurance products; and

(iii) monetary claims against the vendors in the sale of completed or uncompleted first-hand residential properties; and

(c) expand the scope of SLAS to cover representation for employees in appeals brought by either the employer or the employee against awards made by the Labour Tribunal, regardless of the amount in dispute.

3. A LegCo Brief (ref. HAB/CR 19/1/2) was issued on the same date. A LegCo Subcommittee was subsequently formed to scrutinise the proposed Resolution. Upon completion of the Subcommittee's scrutiny, the Administration gave notice on 13 April 2012 to move the proposed Resolution at the LegCo meeting on 2 May 2012.

4. However, owing to the unfinished business carried over from the LegCo meetings since 2 May 2012, the proposed Resolution has not yet been discussed as of to date. Subject to the passage of the proposed Resolution, the Chief Executive-in-Council will be invited to make the Legal Aid (Amendment) Regulation 2012 and the Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulation 2012 ("Amendment Regulations") to provide for the increased application fees and enhanced rates of contribution for most types of new cases under the expanded SLAS (details at [Annex](#)). Upon LegCo's approval of the legislative amendments, we will seek approval from the LegCo Finance Committee ("FC") on the proposed injection of \$100 million into the Supplementary Legal Aid Fund ("SLAS Fund") to support the expansion of SLAS.

5. The updated legislative timetable, subject to the passage of the proposed Resolution within the current term of LegCo, is as follows –

Passage of the proposed Resolution	To be notified
Subject to the passage of the proposed Resolution, to table the Amendment Regulations at LegCo for negative vetting	Mid-October 2012
Seek FC's approval on the \$100 million injection into the SLAS Fund	Early November 2012
Commencement of the Resolution and the Amendment Regulations	Early December 2012

OTHER PROPOSALS NOT SUPPORTED FOR INCLUSION IN SLAS AT THIS STAGE

6. At the LegCo Panel on Administration of Justice and Legal Services meeting on 20 December 2011, we reported the Administration's views on proposals not supported for inclusion in SLAS, including the proposed inclusion of claims against property developers by minority owners in respect of compulsory sales of building units and claims against sale of goods and provision of services (vide LC Paper No. CB(2)600/11-12(01)). Upon commencement of the expanded SLAS, we will monitor the applications for the newly added proceedings and their impact on the SLAS Fund, and invite the Legal Aid Services Council to conduct a further review on the scope of SLAS in the light of the experience gained. We will keep the Panel informed of the progress.

ADVICE SOUGHT

7. Members are invited to note the progress in respect of the expansion of OLAS and SLAS as set out above.

Home Affairs Bureau**June 2012**

Proposed legislative amendments to provide for the increased application fees and enhanced rates of contribution under the expanded Supplementary Legal Aid Scheme (SLAS)

- (a) For the application fee and rates of contribution for any of the new types of civil proceedings under the expanded SLAS (except representation for employees in respect of civil proceedings relating to appeals under the Labour Tribunal Ordinance (“LTO”) (Cap. 25)) –
- (i) the application fee be set at \$5,000;
 - (ii) the interim contribution rate be set at 10% of the assessed financial resources of the aided person or the current interim contribution payable by an aided person under SLAS as set out in regulation 14(a) of the Legal Aid (Assessment of Resources and Contributions) Regulation, whichever is the higher; and
 - (iii) where the claim is settled before the date of commencement of the trial, the rate of levy on value of property recovered in the final contribution be set at 15% of the value of property recovered (however, if the settlement is made before that date but after the delivery of a brief to counsel for attendance at trial, the rate would be 20%); and in any other case, the rate be set at 20%;
- (b) for any of the civil proceedings in relation to existing types of claim for medical, dental and legal professional negligence, the application fee and rates of contribution be set at the same level as proposed in paragraph (a) above; and
- (c) for representation for employees in respect of civil proceedings relating to appeals under the LTO, the application fee¹ and rates of contribution² be set at the levels under the existing SLAS before the expansion of scope.

1 The application fee is set at \$1,000.

2 For the calculation of final contribution for such proceedings, where the claim is settled before the date of commencement of the hearing of the appeal in the Court of First Instance, the rate of contribution is 6% of the value of property recovered (however, if the settlement is made before that date but after the delivery of a brief to counsel for attendance at the hearing, the rate would be 10%); and in any other case, the rate is 10%.