

立法會
Legislative Council

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Date : 9 November 2012

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 28 November 2012

**Proposed resolution under
the Criminal Procedure Ordinance**

I forward for Members' consideration a proposed resolution which the Chief Secretary for Administration will move at the Council meeting of 28 November 2012 under section 9B of the Criminal Procedure Ordinance (Cap. 221). 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 speech, in both Chinese and English, which the Chief Secretary for Administration will deliver when moving the proposed resolution is also attached.

(Odelia LEUNG)
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 2012, made by the Criminal Procedure Rules Committee on 26 October 2012, be approved.

Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2012

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

2. Criminal Procedure (Witnesses' Allowances) Rules amended

The Criminal Procedure (Witnesses' Allowances) Rules (Cap. 221 sub. leg. B) are amended as set out in rules 3, 4 and 5.

3. Rule 3 amended (allowances for professional witnesses)

(1) Rule 3(1)—

Repeal

everything after “not exceeding”

Substitute

“\$2,355 for each day the witness is necessarily absent from the witness’s place of residence or practice to attend for such purpose.”.

(2) Rule 3(2)—

Repeal

everything after “during which”

Substitute

“the witness is necessarily absent from the witness’s place of residence or practice to attend for such purpose does not

exceed 4 hours, the professional witness allowance must not exceed \$1,175.”.

4. Rule 4 amended (allowances for expert witnesses)

(1) Rule 4(1)—

Repeal

everything after “not exceeding”

Substitute

“\$2,355 for each day the witness is necessarily absent from the witness’s place of residence, business or employment to attend for such purpose.”.

(2) Rule 4(2)—

Repeal

everything after “during which”

Substitute

“the witness is necessarily absent from the witness’s place of residence, business or employment to attend for such purpose does not exceed 4 hours, the expert witness allowance must not exceed \$1,175.”.

5. Rule 5 amended (allowances for loss of remuneration or expenses incurred)

(1) Rule 5(1)—

Repeal

everything after “to which”

Substitute

“the witness would not otherwise have been subject, a loss allowance not exceeding \$410 for each day of attendance, in respect of that loss or expense.”.

(2) Rule 5(2)—

Repeal

everything after “absent from”

Substitute

“the witness’s place of residence, business or employment to attend to give evidence does not exceed 4 hours, the witness’s loss allowance must not exceed \$205.”.

Made this 26th day of October 2012.

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

The Hon. Mr. Justice LUNN J.A.

The Hon. Mrs. Justice BARNES

Selwyn YU, S.C.

Kenneth NG Hung-sui

William TAM Yiu-ho

Allan CHAN Wing-cho

Andy HO Chi-yin
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 of 28 November 2012**

Criminal Procedure Ordinance (Cap. 221)

Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2012

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 2012 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 \$360 for each day of attendance or \$180 for not exceeding four hours of attendance. The maximum allowance for professional or expert witnesses is higher, at \$2,170 for each day of attendance or \$1,085 for not exceeding four hours of attendance.

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 2009. The Judiciary Administration (JA) has reviewed the rates of allowances earlier this year. Taking into account the movements in the MMEE from the second quarter of 2008 to the second quarter of 2012 and the mid-point salary of a Medical and Health Officer from

(Translation)

1 April 2008 to 1 April 2012, JA proposes, and SFST approves, to increase the maximum rate of allowance for an ordinary witness from \$360 to \$410 for each day of attendance and from \$180 to \$205 for not exceeding four hours of attendance. For professional or expert witness, the maximum rate of allowance will be increased from \$2,170 to \$2,355 for each day of attendance and from \$1,085 to \$1,175 for not exceeding four hours of attendance. 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 2012 seeks to implement the new rates of allowances. I invite Members to approve the Resolution. Thank you.