

## NOTE FOR FINANCE COMMITTEE

### Allowances for jurors and witnesses

#### PURPOSE

This Note informs Members of the proposed revisions to the rates of allowances for jurors and witnesses.

#### BACKGROUND

##### Existing rates of allowances

(i) *Jurors*

2. Section 31(1) of the Jury Ordinance (Cap. 3) provides that a person who serves as a juror in a criminal or civil case, or any inquest under the Coroners Ordinance (Cap. 504), shall be paid an allowance at such rate as the Chief Executive in Council may prescribe. If the Chief Justice (CJ) or the trial judge so orders, a juror may also be paid an additional allowance not exceeding such rate as the Chief Executive in Council may prescribe (section 31(2) and (3) of the Jury Ordinance). The existing rates of both allowances and maximum additional allowances for jurors are \$410 a day, or part of a day, during which a person serves as a juror and are specified in the Allowances to Jurors Order (Cap. 3A).

(ii) *Witnesses*

3. Section 9B(1) of the Criminal Procedure Ordinance (Cap. 221) provides that the Criminal Procedure Rules Committee<sup>1</sup> (Rules Committee) may, with the approval of the Legislative Council (LegCo), make rules providing for the payment of different rates of allowance to different classes of witnesses in criminal proceedings. Accordingly, the Criminal Procedure (Witnesses' Allowances) Rules

/(Cap. 221B) .....

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<sup>1</sup> The Rules Committee is established under section 9 of the Criminal Procedure Ordinance to make rules and orders regulating the practice and procedure under the Ordinance. The Committee is chaired by the Chief Judge of the High Court and comprises, among others, a barrister nominated by the Hong Kong Bar Association and a solicitor nominated by the Law Society of Hong Kong.

(Cap. 221B) provide that the maximum allowance the court may allow in respect of a professional or an expert witness is \$2,355 for each day of attendance (or \$1,175 for not exceeding four hours of attendance) and that for any other witness (ordinary witness) is \$410 for each day of attendance (or \$205 for not exceeding four hours of attendance).

4. Similarly, section 54(1) of the Coroners Ordinance provides that the CJ may make rules providing for the payment of different rates of allowance to different classes of witnesses in coroners' inquests. The rules are subject to the approval of the LegCo (see section 54(4) of the Coroners Ordinance). At present, the maximum rates of allowances are specified in the Coroners (Witnesses' Allowances) Rules (Cap. 504E) and are the same as those in criminal proceedings (see paragraph 3 above).

### **Adjustment mechanism**

5. In approving the rates of allowances for jurors and witnesses on 15 October 1993, the Finance Committee (FC) of the LegCo delegated authority to the then Secretary for Treasury (now the Secretary for Financial Services and the Treasury (SFST)) to approve future changes in the rates of allowances for jurors and witnesses made in accordance with the movements of the following adjustment indicators on a biennial basis –

- (a) rates for jurors and ordinary witnesses - to be made in accordance with the movements in the Median Monthly Employment Earnings of Employees (MMEE) in Hong Kong as recorded in the General Household Survey by the Census and Statistics Department; and
- (b) rates for professional and expert witnesses - to be made in accordance with the changes in the mid-point salary of a Medical and Health Officer in Hong Kong as recorded in the Master Pay Scale of the Civil Service Grades, Ranks and Pay Scales.

6. The existing rates of allowances for jurors and witnesses were set in 2013 based on the biennial review conducted in 2012.

### **PROPOSED REVISIONS**

7. At the biennial review conducted by the Judiciary Administration (JA) in 2014, the opportunity was taken to review the basis for determining the rates of jurors' allowances. As a refinement measure, it is considered that the MMEE to be adopted should more appropriately be changed from the overall MMEE (the computation of which is based on the composition of employees aged 15 or above,

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irrespective of their educational level) to a stratified MMEE (computed on the basis of the composition of employees who fulfill the requirement of being empanelled as jurors, i.e. aged 21 or above and below 65 with education standard of matriculation or above, or equivalent). The ceiling of the amount of additional jurors' allowances should continue to be set at the same level as the jurors' allowances and should be adjusted accordingly.

8. Taking into account the movements of the relevant MMEE from the second quarter of 2012 to the third quarter of 2014, the mid-point salary changes of a Medical and Health Officer from 1 April 2012 to the third quarter of 2014<sup>2</sup>, and the need to maintain the real value of the rates of allowances to minimise any financial loss suffered by members of the public serving as jurors or testifying as witnesses in courts, JA proposed and SFST approved the following increases in the rates of allowances –

Type of Allowances	Existing Rates	Changes in MMEE/ mid-point salary of a Medical and Health Officer	Proposed Rates
(a) Allowance for jurors	\$410 a day or part of a day	+76.8%	\$725 a day or part of a day
(b) Maximum additional allowance for jurors	\$410 a day or part of a day	+76.8%	\$725 a day or part of a day
(c) Maximum allowance for ordinary witnesses	\$410 a day	+8.3%	\$445 a day
	\$205 not exceeding four hours	+8.3%	\$220 not exceeding four hours
(d) Maximum allowance for professional and expert witnesses	\$2,355 a day	+2.6%	\$2,415 a day
	\$1,175 not exceeding four hours	+2.6%	\$1,205 not exceeding four hours

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<sup>2</sup> As at December 2014 (when the Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2015 and Coroners (Witnesses' Allowances) (Amendment) Rules 2015 were being prepared to give effect to the proposed rates of allowances for professional and expert witnesses), the 2014-15 civil service pay adjustment was yet to be approved by the FC. Hence the rates of allowances proposed in this paper could only reflect the mid-point salary as at the third quarter of 2014.

Legislative amendments are required to give effect to the above changes to the rates of allowances for jurors and witnesses. They are being pursued separately.

**FINANCIAL IMPLICATIONS**

9. The proposed increases in the rates of allowances for jurors and witnesses will entail an additional expenditure of about \$2.34 million per annum. Extra financial provisions for this particular exercise are not required as the sum involved can be absorbed from the approved envelope of the Judiciary.

10. On 31 October 2014, the JA issued an information paper to the LegCo Panel on Administration of Justice and Legal Services (the Panel) on the proposed revisions to the rates of allowances for jurors and witnesses, on the basis of the movement of the relevant adjustment indicators between the second quarter of 2012 and the second quarter of 2014. The Panel raised no comments on the proposed increases at its meeting on 24 November 2014. The proposed rates of allowances for jurors in paragraph 8 above have since been updated in the light of the updated stratified MMEE for the third quarter of 2014 during the preparation of the Allowances to Jurors (Amendment) Order 2015 which gives effect to the proposed rates of allowances. As there was no change in the overall MMEE and mid-point salary of a Medical and Health Officer between the second and the third quarter of 2014, no updating to the rates of allowances for ordinary witnesses and professional and expert witnesses is required.

11. Members are invited to note the content of this paper.

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