

Legislative Council
Panel on Administration of Justice and Legal Services

Allowances for Jurors and Witnesses

Purpose

This paper informs Members of the proposed revision to the rates of allowances for jurors and witnesses. The proposed revision requires legislative amendments as the rates are prescribed in the following-

- (a) Allowances to Jurors Order (“AJO”) (Cap 3A);
- (b) Criminal Procedure (Witnesses’ Allowances) Rules (“CP(WA)R”)(Cap 221B); and
- (c) Coroners (Witnesses’ Allowances) Rules (“C(WA)R”) (Cap 504E).

Background

2. At its meeting on 15 October 1993, the Finance Committee of the Legislative Council agreed that the former Secretary for the Treasury (now the Secretary for Financial Services and the Treasury) of the Government should be delegated the authority to approve future changes in the rates of allowances for jurors and witnesses in accordance with the following adjustment indicators on a biennial basis –

- (a) Jurors and witnesses (other than professional or expert witnesses) (“ordinary witnesses”) in accordance with 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) Professional and expert witnesses in accordance with 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.

3. The present rates of allowances for jurors and witnesses were set in February 2013 based on the biennial review which took place in 2012. They are set out under column (b) of the table in paragraph 8 below.

Current Review

4. As in previous reviews, the latest one has examined the movements of the adjustment indicators (as mentioned in paragraph 2 above) that have taken place since the last revision in the rates of allowances for jurors and witnesses in 2013.

5. The opportunity is also taken to review the basis for determining the rates of jurors' allowances. All along the MMEE adopted has been an overall MMEE which reflects the earning situation of an average employee. Nevertheless, the computation of the overall MMEE is based on the composition of employees aged 15 or above, irrespective of their education level. It has not taken into account both the statutory requirement¹ that only persons who have reached the age of 21 or above and below 65 shall be empanelled as jurors and the administrative arrangement that only those who have attained an education standard of matriculation or above shall be empanelled.

6. In this connection, it is considered that, as a refinement measure, the MMEE to be so adopted should more appropriately be changed from the overall MMEE to a stratified MMEE to cover only employees aged 21 or above and below 65 and with an education level of matriculation or above, and the movement of the stratified MMEE will be adopted as the adjustment indicator for the jurors' allowances. 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.

¹ Under section 4 of the Jury Ordinance (Cap. 3), a person who has reached 21 years of age, but not 65 years of age, and is a resident of Hong Kong, unless excepted in accordance with the provisions of the Ordinance, is liable to serve as a juror if the person:

- (a) is of sound mind and not afflicted by blindness, deafness or other disability preventing him from serving as a juror;
- (b) is of good character; and
- (c) has a sufficient knowledge of the language in which the proceedings are to be conducted to be able to understand the proceedings.

7. The change at paragraph 6 above however does not apply to the allowances for ordinary witnesses, as the basis of their present adjustment indicator still remains valid.

Proposed Revision

8. Following the latest review conducted in 2014, and after taking into account the need to maintain the real value of the rates to minimize any financial loss suffered by members of the public serving as jurors or testifying as witnesses in courts, it is proposed that the rates should be revised in accordance with the movement of the relevant adjustment indicators between the second quarter of 2012 and the second quarter of 2014, as set out under column (d) of the following table -

(a) Type of Allowances	(b) Existing Rates	(c) % Changes in Respective Adjustment Indicators	(d) Proposed Rates²
1. Jurors	\$410 a day or part of a day Maximum additional allowance also set at \$410 a day or part of a day	+79.2% ³	\$735 a day or part of a day Maximum additional allowance also set at \$735 a day or part of a day
2. Ordinary witnesses	Not exceeding \$410 a day or not exceeding \$205 for not exceeding four hours	+8.3%	Not exceeding \$445 a day or not exceeding \$220 for not exceeding four hours
3. Professional and expert witnesses	Not exceeding \$2,355 a day or not exceeding \$1,175 for not exceeding four hours	+2.6%	Not exceeding \$2,415 a day or not exceeding \$1,205 for not exceeding four hours

² The proposed rates are rounded to the nearest '0' or '5'.

³ The change is due to the adoption of a stratified MMEE to reflect the age and standard of education requirements of jurors.

Financial Implications

9. The Judiciary Administration estimates that the proposed increase in rates of allowances to jurors and witnesses will entail additional recurrent expenditure of about \$2.41 million per annum. This will be met from within the approved envelope allocation to the Judiciary.

Implementation

10. The implementation of the proposed revision to the rates requires amendment to the following pieces of legislation⁴ -

- (a) AJO, to be made by the Chief Executive in Council and subject to the negative vetting by the Legislative Council;
- (b) CP(WA)R, to be made by the Criminal Procedure Rules Committee and subject to the positive vetting by the Legislative Council; and
- (c) C(WA)R, to be made by the Chief Justice and subject to the positive vetting by the Legislative Council.

11. The legislative proposals will be submitted to the Legislative Council in the current legislative session and the new rates will be introduced as soon as the legislative process is completed.

Future Reviews

12. The Judiciary Administration will take appropriate action in conducting the next review in 2016.

Judiciary Administration
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⁴ The proposed rates will be further revised if more up-to-date adjustment indicators are available.