

For information

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

Review of Financial Eligibility Limits of Legal Aid Applicants

PURPOSE

This paper informs members of the outcome of the review of the financial eligibility limits (“FELs”) of legal aid applicants completed for the two-year reference period from July 2014 to July 2016.

PROPOSAL

2. We propose to amend sections 5(1) and 5A(b) of the Legal Aid Ordinance (“LAO”) (Cap. 91) to increase the FELs under the Ordinary Legal Aid Scheme (“OLAS”) and Supplementary Legal Aid Scheme (“SLAS”) by 4.0% to reflect the accumulated change in the Consumer Price Index (C) (“CPI(C)”) recorded between July 2014 and July 2016.

JUSTIFICATIONS

3. At present, a person whose financial resources¹ do not exceed \$290,380 is financially eligible for legal aid under OLAS which covers civil proceedings in the District Court or higher courts as set out in section 5(1) of the LAO and criminal legal aid under the Legal Aid in Criminal Cases Rules (Cap. 221D). The corresponding upper limit for SLAS is \$1,451,900 as specified in section 5A(b) of the LAO.

4. Pursuant to the Government’s report to the Legislative Council (“LegCo”) on the Legal Aid (Amendment) Bill 1999 in September 1999, the

¹ “Financial resources” means the aggregate of an applicant’s yearly disposable income and disposable capital. A person’s disposable income is his/her gross income minus deductible items as allowed under the Legal Aid (Assessment of Resources and Contributions) Regulations (“the Regulations”) (Cap. 91B). A person’s disposable capital consists of all assets of a capital nature, such as the sum of his/her credit balance, money due to him/her, the value of the person’s interest in non-money resources, the value of business or share in a company etc., unless such items should be excluded from calculation under the Regulations.

FELs under OLAS and SLAS are to be reviewed annually to take into account general price movement and biennially to take into account changes in litigation costs and other relevant factors.

5. In the previous annual review, the Government proposed to increase the FELs by 7.7% in accordance with the CPI(C) changes between July 2012 and July 2014. We informed the LegCo Panel on Administration of Justice and Legal Services in February 2015 and the proposed increase to the FELs was approved by LegCo in July 2015. The adjusted FELs came into effect on 17 July 2015.

THE CURRENT REVIEW

6. The Government has completed a new round of annual review on FELs. Noting that the CPI(C) for the reference period (i.e. July 2014 to July 2016) has increased by 4.0%, we propose to adjust the FELs upward by 4.0% accordingly. The impact of general price movement after July 2016 will be reflected in the next review. The existing FELs and proposed FELs are shown below –

	Existing FEL	Proposed FEL²
OLAS	\$290,380	\$302,000
SLAS	\$1,451,900	\$1,509,980

7. In conducting the previous biennial reviews, the Government sought assistance from the two legal professional bodies but were advised that information on private litigation costs was not available. No adjustment has been made to the FELs on the basis of changes in litigation costs since the introduction of the biennial review in 2000. For the purpose of conducting a new round of biennial review, we are gathering relevant information including litigation costs and will report the outcome to this Panel in due course.

CONSULTATION

8. We have informed the Legal Aid Services Council, the Hong Kong Bar Association and the Law Society of Hong Kong of the outcome of the annual review.

² Rounded to the nearest \$10.

FINANCIAL IMPLICATIONS

9. The proposal to increase the FELs is estimated to incur an additional recurrent expenditure of around \$1.4 million in a full year by the Legal Aid Department (“LAD”). LAD has included the necessary provisions in the 2017-18 Estimates to meet the costs of the proposal and will reflect the resources required in the Estimates of subsequent years. LAD will absorb the workload in effecting the changes to the FELs with its existing manpower resources.

WAY FORWARD

10. Section 7 of the LAO provides that LegCo may, by resolution, amend the amounts of financial resources specified in sections 5 and 5A of the LAO. In accordance with section 7 of the LAO, we plan to move a resolution in LegCo as soon as possible to adjust the FELs upward by 4.0%, i.e. from \$290,380 to \$302,000 for OLAS, and from \$1,451,900 to \$1,509,980 for SLAS.

ADVICE SOUGHT

11. Members are invited to note the outcome of the review and the proposed legislative amendments.

**Home Affairs Bureau
Legal Aid Department
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