

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 allowance and maximum additional allowance for jurors are \$830 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^{Note} 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

^{Note} The Criminal Procedure 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.

criminal proceedings. Accordingly, the Criminal Procedure (Witnesses' Allowances) Rules (Cap. 221B) provide that the maximum allowance the court may allow in respect of a professional or an expert witness is \$2,770 for each day of attendance (or \$1,385 for not exceeding four hours of attendance) and that for any other witness (ordinary witness) is \$515 for each day of attendance (or \$255 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 in accordance with 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 as stated in 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 the 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 witnesses (other than professional or expert witnesses) (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.

The FC also noted the intention of the Government to review the rates of allowances biennially.

6. Upon consideration of the result of the biennial review conducted by the Judiciary Administration (JA) in 2014, the basis for determining the rates of jurors' allowances has been changed from the overall MMEE (the computation of which is based on the composition of employees aged 15 or above, irrespective of

/their

their education level) to a stratified MMEE (to be computed on the basis of the composition of employees which fulfil the requirement of being empanelled as jurors, i.e. aged 21 or above and below 65 with education level of matriculation or above, or equivalent). The ceiling of the amount of additional allowance for jurors, which has been set at the same level as the jurors' allowance, has also been adjusted accordingly.

7. The existing rates of allowances for jurors and witnesses were set in July 2017 based on the biennial review in 2016.

PROPOSED REVISIONS

8. Taking into account the changes in the overall MMEE and stratified MMEE from the third quarter of 2016 to the third quarter of 2018, the mid-point salary changes of a Medical and Health Officer from 1 April 2016 to 1 April 2018, 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, the JA proposed and the SFST approved the following increases in the rates of allowances –

Types of Allowances	Existing Rates	Percentage (%) Changes in Respective Adjustment Indicators for Daily Rates	Proposed Rates
(a) Allowance for jurors	\$830 a day or part of a day	+5.2%	\$875 a day or part of a day
(b) Maximum additional allowance for jurors	\$830 a day or part of a day	+5.2%	\$875 a day or part of a day
(c) Maximum allowance for ordinary witnesses	\$515 a day or \$255 for not exceeding four hours	+11.3%	\$575 a day or \$285 for not exceeding four hours
(d) Maximum allowance for professional and expert witnesses	\$2,770 a day or \$1,385 for not exceeding four hours	+10.6%	\$3,065 a day or \$1,530 for not exceeding four hours

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 \$0.76 million per annum. This will be met from within the approved envelope allocation to the Judiciary.

10. On 12 December 2018, the JA issued an information paper to the LegCo Panel on Administration of Justice and Legal Services (the Panel) on, amongst others, the proposed revisions to the rates of allowances for jurors and witnesses. The Panel raised no comments on the proposed increases at its meeting on 19 December 2018.

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

Administration Wing
Chief Secretary for Administration's Office
Judiciary Administration
February 2019