

**LEGAL AID (AMENDMENT) REGULATION 2000
EXPLANATORY NOTE**

Provisions in the Amendment Regulation (Clause)	Provisions in existing Legal Aid Regulations	Summary of proposed amendment	Remarks
1	-	Commencement of the (Amendment) Regulation	It is our intention to have the Regulation coming into operation concurrently with the Legal Aid (Amendment) Ordinance 2000.
2	Regulation 3(2)(c)	Para 2(c) is repealed and substituted by “financial resources of the applicant”	The amendment seeks to establish uniform reference to the term “financial resources”. The term “financial resources” has been defined in section 2 of the Legal Aid Ordinance and Regulation 2A of the Legal Aid (Assessment of Resources and Contributions) Regulations.
3	Regulation 5	<ul style="list-style-type: none"> - In Para 4, the words “income or financial resources, disposable income and disposable capital” are deleted and substituted “financial resources” - In para 7, repeal “and, in 	<p>This amendment seeks to establish uniform reference to the term “financial resources”.</p> <p>This amendment gives effect to the recommendation</p>

		<p>the cases of legal aid to be granted under the Supplementary Legal Aid Scheme, also pay a fee of \$1,000”</p> <ul style="list-style-type: none"> - Para 8 is repealed - in para (9), reference to “paragraph (7) and (8)” is repealed and substituting “paragraph (7)” - in paragraph (10), “(3), (4), (5) or (8)” are repealed and substituting “(3), (4) or (5)” 	<p>of the Legal Aid Policy Review.</p> <p>Regulation 5(5) already provides DLA with the power to order payment by installment after considering the application of the aided person. There is no need for the aided person to give an undertaking to allow DLA to do so.</p> <p>The amendment is consequential upon the repeal of Regulation 5(8).</p> <p>The amendment is consequential upon the repeal of Regulation 5(8).</p>
4	Regulation 6B	Repeal “6A or 8(3)” and substituting “6A, 8(2), 8(2A) and 8(3)”	The amendment is consequential upon the amendments to Regulation 8.
5	Regulation 6C	Add “or 5AA” after section 5	The provision should also apply to the legal aid certificate granted for Bill of Rights cases because it

			<p>is possible that the legal costs incurred is more than the contribution initially assessed by DLA and the legally-aided person should under the existing arrangement be required to make the ‘maximum contribution’. For SLAS case, because the legal aid recipient is required to pay a fixed sum of interim contribution which is equivalent to the maximum level of contribution under the standard scheme, the situation envisaged in this Regulation will not arise.</p>
6	Regulation 8	<ul style="list-style-type: none"> - para 2(e)(ii), repeal “receiving” and substituting “bankruptcy” - add para 2(fa) - Add para (2A) - replace para (3) 	<p>Receiving order are no longer issued nowadays, bankruptcy orders are issued instead.</p> <p>To provide that if DLA is satisfied that the financial resources of an aided person exceeds the limits of the standard legal aid scheme or SLAS, the certificate shall not be discharged until the person has been given an opportunity to show cause why the certificate should not be discharged.</p> <p>To provide that DLA need not discharge a certificate even if the financial resources of an aided person exceeds the limits if he is satisfied that it is appropriate not to do so.</p> <p>To retain part of the original para 3(b) while</p>

		<ul style="list-style-type: none"> - replace para (3) 	<p>To retain part of the original para 3(b) while removing the part which requires DLA to discharge a certificate if the financial resources of an aided person exceeds the limits</p> <p>The three amendments seek to implement the relevant recommendation in the Legal Aid Policy Review.</p>
7	Regulation 9	<ul style="list-style-type: none"> - to replace para (5A)(b) - the proviso of para 10, repeal “8(3)(b) and substituting 8(3) 	<p>To provide that under SLAS, the amount of interim contribution and the application fee paid should be deducted from the cost to be recovered from the aided person when the certificate is discharged.</p> <p>The amendment is consequential upon the amendments to Regulation 8.</p>
8	Regulation 12	<ul style="list-style-type: none"> - paragraph (2)(e), repeal “or” - paragraph (2)(f), repeal the comma at the end of the paragraph and substituting “; or” - add a new paragraph (2)(g) 	<p>This amendment is consequential upon the addition of paragraph (2)(g).</p> <p>This amendment is consequential upon the addition of paragraph (2)(g).</p> <p>To provide that legal aid could be provided to aided person at an Coroners’ inquest which give rise to the</p>

			proceedings related to the legal aid certificate.
9	Regulation 15B (new)	Regulation 15B is added	<p>To provide for the categories of person regarded as “next of kin” who may be granted legal aid in coroners inquests. They are: 1) the surviving spouse or surviving partners to a union of concubinage; 2) the children of the deceased; 3) the father or mother of the deceased and 4) the brothers or sisters of the deceased.</p> <p>Under para (2) of the new Regulation 15B, DLA has the discretion to grant legal aid to a close relative who falls outside the above list if he is satisfied that it is not practicable to grant legal aid to the persons in the list.</p>

**LEGAL AID (ASSESSMENT OF RESOURCES AND CONTRIBUTIONS) (AMENDMENT) REGULATION 2000
EXPLANATORY NOTE**

Provision in the Amendment Regulation (Clause)	Provisions in existing Legal Aid (Assessment of Resources and Contributions) Regulations	Summary of proposed amendment	Remarks
1	-	Commencement of the (Amendment) Regulation	It is our intention to have the Regulation coming into operation concurrently with the Legal Aid (Amendment) Ordinance 2000.
2	Regulation 7	Para 3 is amended by repealing “and rule 11 of schedule 2”	Rule 11 of Schedule 2 has already been repealed in 1992.
3	Regulation 8A (new)	add a new regulation 8A.	To provide that CSSA recipient be presumed to be financially eligible for legal aid unless there are reasonable grounds to believe or suspect that the financial resources of that person may exceed the financial eligibility limits.
4	Regulation 14	Regulation 14 is replaced	<p>The new regulation 14(a) provides that the aided person under SLAS should pay an interim contribution, which shall be the maximum contribution under the Standard Legal Aid Scheme.</p> <p>The new regulation 14(b) provides that the aided</p>

			<p>person under SLAS should also pay a final contribution which amounts to the cost incurred by the SLAS fund on behalf of the aided person and a percentage of the value of the property recovered from the proceedings which is provided in Part III of Schedule 3 of the Regulation.</p>
5	Rule 8 of Part II under Schedule 1	The original rule 8 is replaced	<p>To provide that the 35-percentile household expenditure of the particular household size (excluding expenditure for rent) shall be adopted as the allowance deductible from the income of the applicants for the calculation of his financial resources. In-between the 5-yearly household expenditure survey, the household expenditure shall be adjusted by the annual change of the CPI(A).</p>
6	Part I of Schedule 3	<ul style="list-style-type: none"> - Add "8A" after "regs." - substitute \$86,000 with "20,000" in subparagraph (a) - subparagraph (b) is replaced - subparagraph (c) is 	<p>This amendment is consequential upon the addition of Regulation 8A.</p> <p>This amendment seeks to lower the non-contribution level to \$20,000.</p> <p>This amendment seeks to revamp the contribution scale under the Standard Legal Aid Scheme.</p> <p>This amendment seeks to revamp the contribution</p>

		replaced	scale for Bill of Rights cases under the Standard Legal Aid Scheme.
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