

**Bills Committee on
Legal Aid (Amendment) Bill 1999**

**Clause 5 of the Legal Aid (Assessment of Resources and Contributions)
(Amendment) Regulation 2000**

The issue

This paper attaches for Members' information draft Clause 5 of the Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulation 2000, which sets out the method for calculating the allowance deductible for determination of the disposable income of legal aid applicant (vide Annex A), and explains its operation by way of an illustration.

Background

2. At the Bills Committee meeting on 28 January 2000, we provided Members with the draft Legal Aid (Amendment) Regulation 2000 and Legal Aid (Assessment of Resources and Contributions)(Amendment) Regulation 2000, to facilitate the Bills' Committee's scrutiny of the Bill. We informed Members at the meeting that Clause 5 of the Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulation 2000 was being prepared.

The Clause

3. The Legal Aid Policy Review 1997 (LAPR) recommended that in calculating the allowance deductible for determining the disposable income of legal aid applicants, the 35-percentile household expenditure of a particular household size, obtained in the 5-yearly Household Expenditure Survey (HES) conducted by the Census and Statistics Department, should be used in place of the existing rates which are pegged to the rates under the Comprehensive Social Security Assistance Scheme. The LAPR further recommended that this figure be adjusted by the Consumer Price Index (A) annually.

4. To give effect to this recommendation, we propose to set out the mechanism for calculating this allowance, with provision for adjustment for

inflation each year, by way of a formula as follows: -

$$E_i \times \frac{\text{CPI(A) excluding rent component, } j - 1}{100}$$

Where:

- “E_i” represents the latest 35-percentile household expenditure of a particular household size (the latest HES was conducted in 1994-95)
- “j” represents a particular year
- “CPI (A) excluding rent component, j – 1” represents the CPI(A) excluding the rent component of the year preceding the particular year in question

Illustration

5. The following best illustrates how the proposed mechanism (formula) works in practice.

6. An applicant for legal aid has three dependants (i.e. a household of 4 members). In the 1994–95 HES, which was released in May 1996, the 35-percentile household expenditure of the household with 4 members is \$9,589 (E_i = \$9,589). The allowance deductible for this 4-members household in the year 2000, assuming the regulation comes into force in that year, is calculated as follows:

- (i) In 1996, the CPI (A) excluding rent component is 106.5. Therefore, the allowance deductible in 1997 (j) is \$ 9,589 × 106.5/100 = \$10,210 (rounded to the nearest ten dollar).
- (ii) In 1997, the CPI(A) excluding rent component is 111.4. Therefore, the allowance deductible in 1998 is \$10,680.
- (iii) In 1998, the CPI(A) excluding rent component is 114.1. Therefore, the allowance deductible in 1999 is \$10,940.
- (iv) The allowance deductible in 2000, will be \$10,640 given a CPI(A) excluding rent component of 110.9 for 1999.

going by the foregoing data, the allowance deductible for households of different sizes in 2000 are set out in Annex B.

7. The result of the next HES (1999 – 2000) should be available by February 2002, and the corresponding figure for the 35-percentile household expenditure obtained in that exercise would be adopted for the purpose of “Ei” in the above formula.

Administration Wing
Chief Secretary for Administration's Office
April 2000

**Comparison of the rate under the proposed mechanism
and the existing rate for households of different sizes
(as in 2000)**

Number of person(s) in the Household	Rate under the proposed mechanism	Existing rate
1	\$2,940	\$1,805
2	\$6,460	\$3,220
3	\$8,950	\$4,350
4	\$10,640	\$5,160
5	\$12,110	\$6,450
6	\$14,650	\$7,740
7	\$17,070	\$9,030

such proceedings whether on his own behalf or on behalf of another, less any application fee paid under regulation 3(3) of the Legal Aid Regulations (Cap. 91 sub. leg.).”.

5. Schedule amended

Part II of Schedule 1 is amended by repealing rule 8 and substituting -

“8. (1) In relation to dependants, there shall not be taken into account, in respect of any household, an amount equivalent to the 35-percentile household expenditure for any particular size of household.

(2) For the purposes of this paragraph -

(a) the expression “35-percentile household expenditure” means the level of expenditure of households of a particular size, excluding expenditure for rent, as included in the 5-yearly Household Expenditure Survey conducted by the Census and Statistics Department, so that 35% of the households of that size have household expenditure below that level and 65% of the households have household expenditure above that level;

(b) the household expenditure obtained in the 1994-1995 Household Expenditure Survey shall, until the results of the next Household Expenditure Survey are obtained, be adjusted in accordance with subparagraph (c), on the coming into operation of the Legal Aid

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Regulation 2000;

- (c) the amount that, in any particular year, shall not be taken into account for a particular household size shall be calculated in February of that particular year according to the following formula rounded to the nearest \$10 amount -

$$E_i \times \frac{\text{CPI (A) excluding rent component, } j-1}{100}$$

Where -

- (i) “E_i” is the 35-percentile household expenditure (excluding expenditure for rent) for a particular household size “i” based on the results of the latest round of the Household Expenditure Survey conducted by the Census and Statistics Department.
- (ii) “CPI (A) excluding rent component, j-1”, is the average monthly Consumer Price Index (A) which excludes the result derived from the item for “rent, including rates and government rents” in year “j-1”, with the base period of the index being the same as the survey period of the Household Expenditure Survey mentioned in subparagraph (i);
- (iii) “j” represents that particular year;

- (d) only the applicant and the dependants of the applicant are to be taken into account in determining the size of household; and
- (e) in ascertaining whether a person is a dependant, regard shall be had to his income and other resources.”.

6. Contributions

Schedule 3 is amended -

- (a) by adding “8A,” after “[regs.”;
- (b) in Part I -
 - (i) in subparagraph (a), by repealing “\$86,000” and substituting “\$20,000”;
 - (ii) by repealing subparagraph (b) and substituting -
 - “(b) except as provided in subparagraph (c), if his financial resources exceed the amount indicated in column A but do not exceed the amount indicated opposite in column B, be the amount or, as the case may be, the percentage of his financial resources indicated opposite in column C as follows -