

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

Legal Aid (Amendment) Regulation 2000

Clause 9: Rule 15B

The issue

This paper attaches for Members' information the revised draft Clause 9 of the Legal Aid (Amendment) Regulation (the Regulation) (at Appendix A), which provides for the types of relatives of a deceased person whom the Director of Legal Aid (DLA) could exercise discretion to grant legal aid in coroners' inquests of public interest.

The Background

2. At the meeting of the Bills Committee of the Legal Aid (Amendment) Bill 1999 on 10 April 2000, Members raised the concern that the proposed Clause 9 of the Regulation might inadvertently restricts the types of family members of the deceased who could be granted legal aid in coroners' inquest of public interest. The Administration undertook to revisit the drafting of the proposed Clause 9 and revert at the next meeting of the Bills Committee.

Revised Clause 9 (Rule 15B)

3. We have taken into account Members' view and revisited the drafting of new Rule 15B. The revised draft that we now propose stipulates that if DLA is satisfied that legal aid could not reasonably be granted to person of the description of new Rule 15B(1), he could grant legal aid to persons who, in his opinion, may reasonably be regarded as a surviving close relative of the deceased. We consider that the revised draft should address Members' concern and ensure that DLA could exercise his discretion without hindrance.

4. The description of persons in new Rule 15B(1) is also revised to follow more closely that in Rule 7 of Labour Tribunal (Suitors' Fund) Rules. Relevant extract of the Labour Tribunal (Suitors' Fund) Rules is at Appendix B.

7. Effect of discharge and revocation

Regulation 9 is amended -

- (a) by repealing paragraph (5A) (b) and substituting -

“(b) where aid was granted under the Supplementary Legal Aid Scheme, by the amount of any interim contribution paid under section 32 of the Ordinance and the application fee paid under regulation 3(3).”;

- (b) in paragraph (a) of the proviso to paragraph (10), by repealing “8(3) (b)” and substituting “8(3)”.

8. Conduct of proceedings by solicitors

Regulation 12(2) is amended -

- (a) by repealing “or” at the end of paragraph (e);

- (b) by repealing the comma at the end of paragraph (f) and substituting “; or”;
and

- (c) by adding -

“(g) to represent the aided person at an inquest into the death of a person under the Coroners Ordinance (Cap. 504) which gives rise to the proceedings to which the certificate relates.”.

9. Regulation added

The following is added -

“15B. Category of persons who may be granted legal aid in coroners inquests

- (1) For the purposes of section 28(2) and paragraph 3 in Part I in Schedule 2 of the Ordinance and the grant of

legal aid to the family of a deceased person in respect of an inquest into deaths under the Coroners Ordinance (Cap. 504), the Director may approve the grant of legal aid to one and, only one, person being the surviving spouse, child, father, mother, brother or sister of the deceased.

(2) Notwithstanding paragraph (1), where the Director is satisfied that there is no person of any description in that paragraph either in being or, to whom a grant of legal aid can reasonably be made, he may for that reason approve the grant of legal aid for the purposes mentioned in paragraph (1) to any other person who, in the opinion of the Director, may reasonably be regarded as a surviving close relative of the deceased if he is satisfied that it is appropriate to do so.”.

Clerk to the Executive Council

COUNCIL CHAMBER

2000

Explanatory Note

This Regulation amends the Legal Aid Regulations (Cap. 91 sub. leg.) as follows -

- (a) to establish uniform reference to the expression “financial resources” (sections 2 and 3(a));
- (b) to make it clear that if the financial resources of an applicant exceed the financial eligibility limits the Director of Legal Aid need not discharge