

LN148-E

L.N. 148 of 2000

Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulation 2000

(Made by the Chief Executive in Council under section 28 of the Legal Aid Ordinance (Cap. 91))

1. Commencement

This Regulation shall come into operation on the day appointed for the commencement of the Legal Aid (Amendment) Ordinance 2000 (26 of 2000).

2. Resources of a spouse

Regulation 7(3) of the Legal Aid (Assessment of Resources and Contributions) Regulations (Cap. 91 sub. leg.) is amended by repealing "and rule 11 of Schedule 2".

3. Regulation added

The following is added---

"8A. Resources of persons receiving Comprehensive Social Security Assistance

For the purposes of determining the financial resources of a person receiving assistance under the Comprehensive Social Security Assistance Scheme administered by the Director of Social Welfare, it shall be presumed that the financial resources of that person do not exceed the amount prescribed in subparagraph (a) of Part I of Schedule 3 unless there are reasonable grounds to believe or suspect that the financial resources of that person may be such as to render him ineligible for legal aid or liable to pay a contribution by virtue of section 18(1) of the Ordinance."

4. Regulation substituted

Regulation 14 is repealed and the following substituted---

"14. Contributions under the Supplementary Legal Aid Scheme

For the purposes of section 32 of the Ordinance and a grant of legal aid to any person under the Supplementary Legal Aid Scheme---

(a) an interim contribution shall be payable by an aided person to the Director for the benefit of the Fund in an amount equivalent to the maximum contribution payable by an aided person under section 18(1) of the Ordinance whose financial resources are equal to the limit prescribed in section 5 of the Ordinance; and

(b) a final contribution shall be payable by an aided person to the Director for the benefit of the Fund in an amount equivalent to---

- (i) the sums paid or payable on his account out of the Fund;
- (ii) the costs incurred on his behalf;

(iii) the percentage calculated in accordance with Part III of Schedule 3 of the value of any property (wherever situate) recovered or preserved for the aided person in 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 1 amended

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

"8. (1) An amount equivalent to the 35-percentile household expenditure shall not be taken into account in relation to the person concerned and his dependants, if any.

(2) For the purposes of this rule---

(a) the expression "35-percentile household expenditure" (住戶開支第 35 個百分值) means the level of expenditure of households of a particular size, excluding expenditure for rent, as obtained 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 (Assessment of Resources and Contributions) (Amendment) Regulation 2000 (L.N. 148 of 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 sub-subparagraph (i);

(iii) "j" represents that particular year;

(d) only the person concerned and his dependants, if any, 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. Rules for computing disposable capital

Schedule 2 is amended by repealing "[regs. 4(b) & 7(1)]" and substituting "[reg. 4(b)]".

7. 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---

A B C

Then, in

If his relation to
financial But do his financial
resources not exceed resources, his
exceed maximum

contribution is

\$20,000	\$40,000	\$1,000
\$40,000	\$60,000	\$2,000
\$60,000	\$80,000	5%
\$80,000	\$100,000	10%
\$100,000	\$120,000	15%
\$120,000	\$144,000	20%
\$144,000	\$169,700	25%;

and";

(iii) by repealing subparagraph (c) and substituting---

"(c) if his certificate is for proceedings in which a breach of the Hong Kong Bill of Rights Ordinance (Cap. 383) or an inconsistency with the International Covenant on Civil and Political Rights as applied to Hong Kong is an issue and---

(i) 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---

A B C

Then, in

If his relation to
financial But do his financial
resources not exceed resources, his
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contribution is

\$20,000	\$40,000	\$1,000
\$40,000	\$60,000	\$2,000
\$60,000	\$80,000	5%
\$80,000	\$100,000	10%
\$100,000	\$120,000	15%
\$120,000	\$144,000	20%
\$144,000	\$169,700	25%
\$169,700	\$269,700	30%
\$269,700	\$369,700	35%
\$369,700	\$469,700	40%
\$469,700	\$569,700	45%
\$569,700	\$669,700	50%
\$669,700	\$769,700	55%
\$769,700	\$869,700	60%
\$869,700	\$1,200,000	65%; or

(ii) if his financial resources exceed \$1,200,000, be 67% of his financial resources.";

(c) in Part III, in paragraph 3, by repealing "15%" and substituting "12%".

CHENG Mei-sze, Maisie

Clerk to the Executive Council

Council Chamber

16 May 2000

Explanatory Note

This Regulation amends the Legal Aid (Assessment of Resources and Contributions) Regulations (Cap. 91 sub. leg.) as follows---

(a) to enable the Director of Legal Aid to provide for exceptions in the determination of the financial resources of persons receiving assistance under the Comprehensive Social Security Assistance Scheme (section 3);

(b) to provide for the manner and the circumstances in which, having regard to the 5-yearly Household Expenditure Survey conducted by the Census and Statistics

Department, allowable deductions are to be calculated or made for the purposes of grants of legal aid (section 5);

(c) to adjust the scale of contributions payable by persons granted legal aid and to reduce the percentage contribution prescribed for legal aid granted under the Supplementary Legal Aid Scheme (section 7).