

立法會
Legislative Council

LC Paper No. LS30/03-04

**Paper for the House Committee Meeting
on 9 January 2004**

**Legal Service Division Report on
Proposed Resolution under section 7(a) of the
Legal Aid Ordinance (Cap. 91)**

The Chief Secretary for Administration ("the Chief Secretary") has given notice to move a motion at the Legislative Council meeting on 14 January 2004. The motion is for seeking the Legislative Council's approval of the downward adjustment of the financial eligibility limits of legal aid applicants.

2. Pursuant to section 5 of the Legal Aid Ordinance ("the Ordinance"), a person whose financial resources do not exceed \$169,700 is eligible for legal aid under the Ordinary Legal Aid Scheme ("OLAS"). Pursuant to section 5A of the Ordinance, a person whose financial resources is in excess of \$169,700 but do not exceed \$471,600 is eligible for legal aid under the Supplementary Legal Aid Scheme ("SLAS"). Section 7 of the Ordinance provides that the Legislative Council may by resolution amend the amounts of financial resources specified in these two sections.

3. According to the draft speech by the Chief Secretary, the cumulative decrease in Consumer Price Index over the period from July 2000 to July 2003 is 8.2%. To maintain the real values of the financial eligibility limits, the Administration proposes to adjust downward the limit for the OLAS from \$169,700 to \$155,800 and that for the SLAS from \$471,600 to \$432,900 in accordance with the cumulative decrease consumer prices.

4. The issue on financial limits of legal aid applicants had been discussed in the Administration of Justice and Legal Services Panel at its meetings on 23 June 2003 and 27 October 2003 respectively. In the course of the Panel's discussion, a member expressed the view that the existing mechanism for adjusting the financial eligibility limits in accordance with the findings of the regular reviews should be adhered to as far as possible, so as to avoid drastic adjustments resulting from the cumulative changes in consumer prices over a long period of time. Another member, however, cautioned that frequent adjustments to reflect small consumer price changes would cause confusion and instability to the system which might not be beneficial to the administration of legal aid. A member considered that litigation costs were an important factor affecting a

person's ability to engage in litigation. Hence, changes in litigation costs should also be taken into account in considering whether the financial eligibility limits should be revised. Some members opined that under the existing financial eligibility limits, a large number of applicants who could not afford the costs of private litigation had been refused legal aid on grounds of means. They questioned whether the financial eligibility limits had been realistically set. The Panel considered that it would be for the House Committee to decide whether a subcommittee should be set up to study the proposed adjustments. Members may refer to minutes of the two meetings vide LC Paper No. CB(2)3051/02-03 and CB(2)387/03-04 for details.

5. This resolution, if passed by the Legislative Council, shall come into operation on a day to be appointed by the Director of Administration by notice published in the Gazette.

6. No difficulties in relation to the legal and drafting aspects of the resolution have been identified.

Prepared by

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