

For discussion on
6 February 2004

LEGCO SUB-COMMITTEE ON
PROPOSED RESOLUTION OF THE LEGISLATIVE COUNCIL
UNDER SECTION 7(A) OF THE LEGAL AID ORDINANCE
(CAP. 91)

INTRODUCTION

————— This paper informs Members of the need to introduce the Resolution under section 7(a) of the Legal Aid Ordinance (the Ordinance), at **Annex**, into the Legislative Council (LegCo), to adjust downward the financial eligibility limits of legal aid applicants in line with the reduction of consumer prices at 8.2% recorded during July 2000 to July 2003.

BACKGROUND

2. At present, a person whose financial resources¹ do not exceed \$169,700 is financially eligible for legal aid under the Ordinary Legal Aid Scheme (OLAS). The corresponding limit for the Supplementary Legal Aid Scheme (SLAS) is \$471,600. The two financial eligibility limits are set out at sections 5(1) and 5A(b) of the Ordinance respectively. Our previous practice was to adjust the limits in line with changes in consumer prices once every two years.

3. Following a Legal Aid Policy Review conducted in 1997, the Administration has revamped the review cycle for the financial eligibility limits. The limits are now reviewed annually, rather than once every two years, to take account of changes in consumer prices, so as to better maintain their real value. The revised review cycle was implemented in 2000.

¹ Financial Resources means the aggregate of an applicant's yearly disposable income and disposable capital. A person's **disposable income** is his gross income minus his personal allowances, rent/mortgage payments and salary tax payments. A person's **disposable capital** is defined as the sum of his credit balance, the market value of non-money resources and the value of business or share in a company.

THE REVIEW

4. In accordance with the revised review cycle, we conducted the first annual review of the financial eligibility limits in the second half of 2001. The accumulated inflation rate for the period from July 2000 to July 2001 was -1.2%. In the light of this small decrease in consumer prices, we decided to defer the downward adjustments to the limits, pending the outcome of the annual review in 2002.

5. We have since completed both the second and third annual reviews of the limits to take account of inflation during the periods from July 2001 to July 2002, and from July 2002 to July 2003. The changes in CPI(C) during July 2000 to July 2001, July 2001 to July 2002, and July 2002 to July 2003, as well as the cumulative decrease in CPI(C) since July 2000 are tabulated as follows-

Changes in CPI(C)			
July 2000 to July 2001	July 2001 to July 2002	July 2002 to July 2003	July 2000 to July 2003 (Cumulative)
-1.2%	-2.7%	-4.5%	-8.2%

6. In the light of this significant and persistent decrease in consumer prices, there is a need to adjust downward the financial eligibility limits to maintain the real value of the limits. Otherwise, some sections of the community would de-facto be caught within the net of legal aid for no reason other than the reduction in prices during this deflationary time. We therefore propose to adjust, vide the LegCo Resolution at **Annex**, the financial eligibility limits for the OLAS and SLAS from \$169,700 to **\$155,800**, and from \$471,600 to **\$432,900** respectively, to take into account the cumulative reduction in consumer prices of 8.2% recorded during July 2000 to July 2003.

7. The financial eligibility limits of legal aid applicants are set out in the Ordinance. Pursuant to section 7(a) of the Ordinance, they may be amended by a resolution of LegCo. Hence the proposed Resolution at **Annex**.

THE RESOLUTION

8. The Resolution under section 7(a) of the Ordinance seeks to repeal the financial eligibility limit of “\$169,700” in section 5(1) and section 5A(b) of the Ordinance and substitute it by “\$155,800”; and to repeal the financial eligibility limit of “\$471,600” in section 5A(b) of the Ordinance and substitute it by “\$432,900”.

IMPLICATIONS OF THE PROPOSAL

9. The proposal is in conformity with the Basic Law, including provisions concerning human rights. The Resolution will not affect the existing binding effect of the Ordinance. There should be no financial implications arising from the proposal. The proposal should also have no civil service, economic, productivity, environmental or sustainability implications.

PUBLIC CONSULTATION

10. We have briefed the Legal Aid Services Council (LASC) and the LegCo Panel on Administration of Justice and Legal Services (AJLS Panel) on the proposed downward adjustment to the financial eligibility limits. The LASC has no objection to our proposal. Some members of the AJLS Panel considered that the Administration should not simply look at the inflationary or deflationary trends as reflected in movements of consumers prices in adjusting the financial eligibility limits for legal aid.

**Administration Wing
Chief Secretary for Administration’s Office**

February 2004

LEGAL AID ORDINANCE

RESOLUTION OF THE LEGISLATIVE COUNCIL

Resolution made and passed by the Legislative Council under section 7(a) of the Legal Aid Ordinance (Cap. 91) on 2004.

RESOLVED -

- (a) that the Legal Aid Ordinance (Cap. 91) be amended -
 - (i) in section 5(1), by repealing "\$169,700" and substituting "\$155,800";
 - (ii) in section 5A(b)-
 - (A) by repealing "\$169,700" and substituting "\$155,800";
 - (B) by repealing "\$471,600" and substituting "\$432,900"; and
- (b) that this Resolution shall come into operation on a day to be appointed by the Director of Administration by notice published in the Gazette.

Clerk to the Legislative Council

2004

Explanatory Note

This Resolution reduces the limit of financial resources for a person to be eligible for legal aid under the Legal Aid Ordinance (Cap. 91).

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