

立法會
Legislative Council

LC Paper No. LS40/10-11

**Paper for the House Committee Meeting
on 18 March 2011**

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

The Secretary for Home Affairs (SHA) has given notice to move a motion at the Legislative Council's meeting to be held on 30 March 2011 to seek the approval of the Legislative Council for the upward adjustment of the financial eligibility limits of legal aid applicants.

2. The Legal Aid Ordinance (Cap. 91) (the Ordinance) provides for the granting of legal aid in civil actions to persons of limited means. Under section 5 of the Ordinance, a person whose financial resources do not exceed \$175,800 is eligible for legal aid under a scheme which is commonly known as the Ordinary Legal Aid Scheme (OLAS). The limit for OLAS also applies to criminal legal aid under rule 4(1) of the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg. D). Under section 5A of the Ordinance, a person whose financial resources exceed \$175,800 but do not exceed \$488,400 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. The existing amounts of financial resources were specified in May 2009 (L.N. 116 of 2009).

3. According to the draft speech of SHA, the Administration proposes to adjust upward the limit for OLAS from \$175,800 to \$260,000 and that for SLAS from \$488,400 to \$1.3 million in response to calls from the community, and having regard the views from the Legal Aid Services Council, the Panel on Administration of Justice and Legal Services Panel (AJLS Panel), the legal profession and relevant stakeholders.

4. At the meeting of AJLS Panel held on 29 March 2010, the Administration reported its proposals arising from its recent five-yearly review of the criteria for assessing the financial eligibility of legal aid applicants, including the proposal of raising the financial eligibility limit for OLAS from \$175,800 to

\$260,000 and that for SLAS from \$488,400 to \$1 million. After further discussions with AJLS Panel and relevant organizations at AJLS Panel meetings on 24 May and 21 July 2010, the Administration reported to AJLS Panel at its meeting on 30 September 2010 that having considered the views expressed by members and the various stakeholders, the Administration had revised some of its proposals. The Administration proposed, inter alia, to further increase the financial eligibility limit for SLAS from \$1 million to \$1.3 million.

5. Members of AJLS Panel in general welcomed the Administration's proposal of raising the financial eligibility limits to widen access to justice and urged the Administration to implement the proposal as early as practicable. Some members considered that the Administration should consider further increasing the financial eligibility limits for the two legal aid schemes. At the AJLS Panel meeting on 28 February 2011, the Administration further briefed the Panel on the legislative amendments to effect its proposal of increasing the financial eligibility limits for OLAS and SLAS (which is reflected in the proposed resolution). Members raised no further queries.

6. The upward adjustment of the financial eligibility limits of legal aid applicants will come into operation on the date of publication in the Gazette after having been approved by the Legislative Council.

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

Prepared by

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