

**立法會**  
***Legislative Council***

LC Paper No. CB(4)768/12-13

Ref : CB4/SS/6/12

**Paper for the House Committee meeting on 14 June 2013**

**Report of the Subcommittee on Proposed Resolution under Section 7(a)  
of the Legal Aid Ordinance (Cap. 91)**

**Purpose**

This paper reports on the deliberations of the Subcommittee on Proposed Resolution under Section 7(a) of the Legal Aid Ordinance (Cap. 91) ("the Subcommittee").

**Background**

2. The financial eligibility limits ("FELs") of the Ordinary Legal Aid Scheme ("OLAS") and the Supplementary Legal Aid Scheme ("SLAS") are reviewed annually by the Administration to take into account changes in the Consumer Price Index (C) ("CPI(C)") so as to maintain their real values. A person whose financial resources do not exceed the FELs is financially eligible for legal aid.

3. According to the Administration, financial resources of legal aid applicants means the aggregate of an applicant's yearly disposable income and disposable capital. A person's disposable income is his gross income minus deductible items as allowed under the Legal Aid Ordinance (Cap. 91) ("the Ordinance"). A person's disposable capital is the sum of his credit balance, money due to him, the market value of non-monetary resources and the value of business or share in a company, minus deductible items as allowed under the Ordinance.

### **The proposed resolution**

4. The proposed resolution under section 7(a) of the Ordinance seeks to amend the FELs for OLAS and SLAS for the granting of legal aid in civil actions to reflect the result of the 2012 annual review as follows:

|      | <i>Existing limit</i>                             | <i>Proposed limit</i>                             |
|------|---|---|
| OLAS | not exceeding \$260,000                           | not exceeding \$269,620                           |
| SLAS | exceeding \$260,000 but not exceeding \$1,300,000 | exceeding \$269,620 but not exceeding \$1,348,100 |

The FEL for OLAS also applies to criminal legal aid.

5. The increase in the CPI(C) recorded during the 2012 review from July 2011 to July 2012 was 3.7%. Accordingly, the Administration has proposed that the FELs should be adjusted upward by 3.7%.

### **The Subcommittee**

6. At the House Committee meeting on 10 May 2013, Members agreed that a subcommittee should be formed to study the proposed resolution under section 7(a) of the Ordinance. Under the chairmanship of Hon Albert HO, the Subcommittee has held one meeting with the Administration. The membership list of the Subcommittee is in the **Appendix**.

### **Deliberations of the Subcommittee**

#### FELs of legal aid applicants

7. Concern was raised about the progress of the comprehensive review of the FELs for OLAS and SLAS.

8. The Administration has advised that apart from conducting an annual review of the FELs for OLAS and SLAS to take into account movements in CPI(C), it is also the practice of the Administration to conduct (i) a review of the FELs of legal aid applicants biennially to take into account changes in litigation costs and (ii) a review of the criteria used to assess the FELs of legal aid applicants every five years. Preparatory work for the biennial and

five-yearly reviews have commenced, and the Administration plans to report to the Panel on Administration of Justice and Legal Services ("the AJLS Panel") progress of these two reviews in the 2013-2014 legislative session.

#### Scope of OLAS and SLAS

9. Question was raised as to when the Administration would be in a position to report to the AJLS Panel on its review of the expansion of the scope of SLAS to cover more types of cases, following the injection of \$100 million by the Government into the Supplementary Legal Aid Fund ("SLAF") in December 2012.

10. The Administration has explained that as the scope of SLAS has recently been substantially expanded to cover more types of cases, such as monetary claims against the vendors in the sale of first-hand completed or uncompleted residential properties if the claims exceeded \$60,000 and more professional negligence claims, in November 2012, more time is needed to assess the impact of such expansion on the financial viability of SLAF and the operational experience gained. The Administration would consult the Legal Aid Services Council ("LASC") on whether the scope of SLAS should be further expanded, after acquiring more operational experience, before reporting to the AJLS Panel in the next legislative session.

11. On the suggestion of expanding the scope of SLAS as well as OLAS to cover defamatory libel cases, the Administration has agreed to convey such to the LASC for consideration.

#### Contributions under OLAS

12. Responding to the concern that the amounts of contributions required of the successful applicants of OLAS, ranging from \$1,000 to \$65,000, are too high, the Administration has pointed out that over 80% of the aided persons of OLAS either are not required to pay contributions or pay a contribution of not more than \$2,000. If an aided person of OLAS is unable to pay the contribution in one go, the aided person can pay the contribution by installments. Once the aided person paid the first installment, a Legal Aid Certificate will be issued and the services of a solicitor or, if necessary, a barrister will be assigned to the aided person to conduct the court proceedings.

#### Commencement of the resolution

13. The Administration has advised that subject to the passage of the resolution at the Council meeting on 26 June 2013, the resolution will be

gazetted and come into operation on 28 June 2013.

**Recommendation**

14. The Subcommittee has no objection to the Secretary for Home Affairs giving notice for moving the proposed resolution at the Council meeting on 26 June 2013.

**Advice sought**

15. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 4  
Legislative Council Secretariat  
11 June 2013

## Appendix

### Subcommittee on Proposed Resolution under Section 7(a) of the Legal Aid Ordinance (Cap. 91)

#### Membership list

**Chairman** Hon Albert HO Chun-yan

**Members** Hon LEE Cheuk-yan  
Dr Hon Priscilla LEUNG Mei-fun, JP  
Hon Paul TSE Wai-chun, JP  
Hon WONG Yuk-man  
Hon KWOK Wai-keung  
Hon Dennis KWOK  
Hon TANG Ka-piu  
Hon CHUNG Kwok-pan  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

(Total : 10 Members)

**Clerk** Mary SO

**Legal adviser** Clara TAM

**Date** 31 May 2013