

立法會
Legislative Council

LC Paper No. LS8/12-13

**Paper for the House Committee Meeting
on 16 November 2012**

**Legal Service Division Report on
Proposed Resolutions under
section 9B of the Criminal Procedure Ordinance (Cap. 221) and
section 54 of the Coroners Ordinance (Cap. 504)**

The Chief Secretary for Administration has given notice to move two proposed resolutions at the Legislative Council meeting of 28 November 2012 to seek the Council's approval of the Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2012 and the Coroners (Witnesses' Allowances) (Amendment) Rules 2012 (Amendment Rules) made by the Criminal Procedure Rules Committee and the Chief Justice respectively.

2. The Amendment Rules propose to revise the maximum rates of allowances payable to witnesses in criminal proceedings under the Criminal Procedure (Witnesses' Allowances) Rules (Cap. 221 sub. leg. B) and coroners' inquests under the Coroners (Witnesses' Allowances) Rules (Cap. 504 sub. leg. E) respectively as follows —

<i>Type of Allowances</i>		<i>Existing Rates</i>	<i>Proposed Rates</i>
(a) Ordinary witnesses	a day	\$360	\$410
	not exceeding 4 hours	\$180	\$205
(b) Expert/professional witnesses	a day	\$2,170	\$2,355
	not exceeding 4 hours	\$1,085	\$1,175

3. According to the Administration, the Judiciary Administration (JA) conducted a review of the current rates of allowances in 2010 following their last revision in 2009 and the results suggested no upward adjustment. JA conducted another review earlier this year. Taking into account the movements in the following indices —

- (a) regarding rates for ordinary witnesses - the median monthly earnings of employees in Hong Kong from the second quarter of 2008 to the second quarter of 2012; and
- (b) regarding rates for professional and expert witnesses - the mid-point salary of a Medical and Health Officer from 1 April 2008 to 1 April 2012;

the new rates of allowances were proposed by JA and approved by the Secretary for Financial Services and the Treasury to maintain the real value of the allowances to minimize any financial loss suffered by members of the public serving as witnesses in criminal proceedings and coroner's inquests.

4. The rates of allowances payable to ordinary witnesses are the same as those payable to jurors. A corresponding revision made by amendments to the Allowances to Jurors Order (Cap. 3 sub. leg. A) has been gazetted as L.N. 170 on 9 November 2012 (LC Paper No. LS 9/12-13 refers).

5. Members may refer to LegCo Brief (File Ref: CSO/ADM/CR 11/3221/97) dated 7 November 2012, issued by the Administration Wing, Chief Secretary for Administration's Office and JA for other background information on the proposal.

6. As advised by the Clerk of the Panel on Administration of Justice and Legal Services, at the meeting of the Panel held on 10 July 2012, members did not make any comments on the information paper (LC Paper No. CB(2)2398/11-12(01) issued by JA on the proposed amendments to the Criminal Procedure (Witnesses' Allowances) Rules (Cap. 221 sub. leg. B) and the Coroners (Witnesses' Allowances) Rules (Cap. 504 sub. leg. E) to increase the rates of allowances for witnesses; and the proposed amendments to the Allowances to Jurors Order (Cap. 3 sub. leg. A) to increase the rates of allowances for jurors.

7. The Amendment Rules will come into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.

8. No difficulties relating to the legal and drafting aspects of the Amendment Rules have been identified.

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