

## **LEGISLATIVE COUNCIL BRIEF**

Legal Aid Ordinance  
(Chapter 91)

### **ANNUAL REVIEW OF FINANCIAL ELIGIBILITY LIMITS OF LEGAL AID APPLICANTS**

#### **INTRODUCTION**

Pursuant to section 7(a) of the Legal Aid Ordinance (Cap. 91) (LAO), the Legislative Council (LegCo), may by resolution amend the amounts of financial resources<sup>1</sup> specified in sections 5 and 5A of the LAO. It is proposed that the resolution at Annex (the Resolution) be passed to amend the financial eligibility limits (FELs) of legal aid applicants under the Ordinary Legal Aid Scheme (OLAS) and the Supplementary Legal Aid Scheme (SLAS) to reflect the result of the 2012 annual review.

Annex

#### **JUSTIFICATIONS**

2. The FELs are reviewed annually to take into account changes in the Consumer Price Index (C) (CPI(C)) to maintain their real values. The increase in the CPI(C) recorded during the 2012 review period (i.e. July 2011 to July 2012) was 3.7%. Accordingly, the FELs should be adjusted upward by 3.7%.

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<sup>1</sup> 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 deductible items as allowed under the LAO. 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 LAO.

## **THE RESOLUTION**

3. A person is financially eligible for legal aid if the person's financial resources do not exceed the FELs specified in the LAO. The Resolution increases the FEL for OLAS from \$260,000 to \$269,620, and the FEL for SLAS from \$1,300,000 to \$1,348,100.

## **LEGISLATIVE TIMETABLE**

4. The legislative timetable is as follows –

Issue notice to move the Resolution at LegCo to effect the amendments	2 May 2013
Moving the Resolution at LegCo to effect the amendments (if no Subcommittee is formed)	22 May 2013
Commencement of the Resolution (if passed by LegCo)	To be notified

## **IMPLICATIONS OF THE PROPOSAL**

### ***Financial and civil service implications***

5. The estimated increase in legal aid costs as a result of the proposed increase in FELs will be around \$1.24 million per year. The Legal Aid Department will absorb the additional financial implications and the additional workload in handling applications and cases with its existing manpower resources.

### ***Other implications***

6. The proposed legislative amendments will not affect the current binding effect of the LAO. The legislative proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no economic, productivity, environmental, sustainability or family implications.

## **PUBLIC CONSULTATION**

7. We have informed the Legal Aid Services Council and the LegCo Panel on Administration of Justice and Legal Services on the proposal. No adverse comments have been received.

## **PUBLICITY**

8. A spokesperson will be available to answer media and public enquiries.

## **BACKGROUND**

9. The FELs of OLAS and SLAS are reviewed annually, biennially and five-yearly to take into account changes in CPI(C), litigation costs and the financial eligibility of legal aid applicants respectively. The FEL of OLAS also applies to criminal legal aid under the Legal Aid in Criminal Cases Rules of the Criminal Procedure Ordinance. Legislative amendments pursuant to the last five-yearly review were implemented in May 2011. Preparatory work for the next biennial and five-yearly reviews is being conducted by the Home Affairs Bureau and the Legal Aid Department.

## **ENQUIRIES**

10. Any enquiry on this brief should be directed to Ms Aubrey Fung, Principal Assistant Secretary for Home Affairs (Civic Affairs) 2, at 3509 8119.

**Home Affairs Bureau**  
**May 2013**

**Legal Aid Ordinance**

**Resolution**

(Under section 7(a) of the Legal Aid Ordinance (Cap. 91))

Resolved that the Legal Aid Ordinance (Cap. 91) be amended as set out in the Schedule.

**Schedule**

**Amendments to Legal Aid Ordinance**

1. **Section 5 amended (persons eligible for legal aid)**

Section 5(1)—

**Repeal**

“\$260,000”

**Substitute**

“\$269,620”.

2. **Section 5A amended (supplementary legal aid)**

Section 5A(b)—

(a) **Repeal**

“\$260,000”

**Substitute**

“\$269,620”;

(b) **Repeal**

“\$1,300,000”

**Substitute**

“\$1,348,100”.

**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 2013.

**Resolved** that the Legal Aid Ordinance (Cap. 91) be amended as set out in the Schedule.

**Schedule**

**Amendments to Legal Aid Ordinance**

**1. Section 5 amended (persons eligible for legal aid)**

Section 5(1)—

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**2. Section 5A amended (supplementary legal aid)**

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(a) **Repeal**

“\$260,000”

**Substitute**

“\$269,620”;

(b) **Repeal**

“\$1,300,000”

**Substitute**

“\$1,348,100”.

**Explanatory Note**

A person is eligible for legal aid if the person's financial resources do not exceed the limits specified in the Legal Aid Ordinance (Cap. 91). This Resolution increases those limits.

Clerk to the Legislative Council

2013

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