

L.N. 146 of 2012

**Legal Aid (Assessment of Resources and Contributions)
(Amendment) Regulation 2012**

(Made by the Chief Executive in Council under section 28 of the Legal Aid Ordinance (Cap. 91))

1. Commencement

This Regulation comes into operation on 30 November 2012.

**2. Legal Aid (Assessment of Resources and Contributions)
Regulations amended**

The Legal Aid (Assessment of Resources and Contributions) Regulations (Cap. 91 sub. leg. B) are amended as set out in sections 3, 4 and 5.

**3. Regulation 14 amended (contributions under the Supplementary
Legal Aid Scheme)**

(1) Regulation 14—

Re-number the regulation as regulation 14(1).

(2) Regulation 14(1), after “Supplementary Legal Aid Scheme”—

Add

“, for proceedings mentioned in paragraph 1, 2, 3 or 8 of Part I of Schedule 3 to the Ordinance”.

(3) Regulation 14(1)(a)—

Repeal

“an interim contribution shall be payable by an aided person to the Director for the benefit of the Fund in”

Substitute

“the amount of the interim contribution payable by the aided person is”.

- (4) Regulation 14(1)(b)—

Repeal

“a final contribution shall be payable by an aided person to the Director for the benefit of the Fund in an amount equivalent to”

Substitute

“the amount of any final contribution payable by the aided person is an amount equivalent to the aggregate of the following”.

- (5) Regulation 14(1)(b)(i), English text—

Repeal

“his”

Substitute

“that person’s”.

- (6) Regulation 14(1)(b)(ii), English text—

Repeal

“on his behalf”

Substitute

“on behalf of that person”.

- (7) Regulation 14(1)(b)(iii), English text—

Repeal

“(wherever situate) recovered or preserved for the aided person in such proceedings whether on his own behalf or on behalf of another”

Substitute

Legal Aid (Assessment of Resources and Contributions) (Amendment)
Regulation 2012

L.N. 146 of 2012

Section 3

B6355

“, wherever situated, recovered or preserved for the aided person in the proceedings (whether on behalf of that person or on behalf of any other person)”.

(8) After regulation 14(1)—

Add

“(2) For the purposes of section 32 of the Ordinance and a grant of legal aid to any person under the Supplementary Legal Aid Scheme, for proceedings mentioned in paragraph 4, 5, 6 or 7 of Part I of Schedule 3 to the Ordinance—

- (a) the amount of the interim contribution payable by the aided person is an amount equivalent to 10% of the financial resources of that person or an amount equivalent to the maximum contribution payable by an aided person under section 18(1) of the Ordinance whose financial resources are equal to the limit prescribed in section 5 of the Ordinance, whichever is the higher; and
- (b) the amount of any final contribution payable by the aided person is an amount equivalent to the aggregate of the following—
 - (i) the sums paid or payable on that person’s account out of the Fund;
 - (ii) the costs incurred on behalf of that person;
 - (iii) the percentage calculated in accordance with Part III of Schedule 3 of the value of any property, wherever situated, recovered or preserved for the aided person in the proceedings (whether on behalf of that person or on behalf of any other person), less any application fee paid under regulation 3(3) of the Legal Aid Regulations (Cap. 91 sub. leg. A).”.

4. Regulation 16 added

Part III, after regulation 15—

Add

“16. Transitional provisions relating to Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulation 2012

Despite sections 3 and 5(16) of the Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulation 2012 (L.N. 146 of 2012) (*Amendment Regulation*), regulation 14 and Part III of Schedule 3 as in force before the date of commencement of the Amendment Regulation continue to apply to a person in relation to legal aid granted under the Supplementary Legal Aid Scheme on an application made before that date by that person.”.

5. Schedule 3 amended (contributions)

(1) Schedule 3, Part I—

Repeal

“The maximum contribution of an aided person under section 18(1)(b) of the Ordinance shall”

Substitute

“For the purposes of regulation 13”.

(2) Schedule 3, Part I—

Repeal subparagraph (a)

Substitute

“(a) if the financial resources of an aided person do not exceed \$20,000, the maximum contribution of the person is \$0;”.

(3) Schedule 3, English text, Part I, subparagraph (b)—

Repeal

“if his financial resources”

Substitute

“if the financial resources of an aided person”.

- (4) Schedule 3, Part I, subparagraph (b)—

Repeal

“in column B, be the amount”

Substitute

“that amount in column B, the maximum contribution of the person is the amount”.

- (5) Schedule 3, Part I, subparagraph (b)—

Repeal

“of his financial resources indicated opposite”

Substitute

“of the financial resources of the person, indicated opposite those amounts”.

- (6) Schedule 3, Part I, subparagraph (b), column A—

Repeal

“his financial resources”

Substitute

“the financial resources of the aided person”.

- (7) Schedule 3, Part I, subparagraph (b), column C—

Repeal

“in relation to his financial resources, his maximum contribution”

Substitute

“the person’s maximum contribution”.

- (8) Schedule 3, English text, Part I, subparagraph (c)—

Repeal

“if his certificate”

Substitute

“if the certificate of an aided person”.

- (9) Schedule 3, English text, Part I, subparagraph (c)(i)—

Repeal

“if his financial resources”

Substitute

“if the financial resources of the person”.

- (10) Schedule 3, Part I, subparagraph (c)(i)—

Repeal

“in column B, be the amount”

Substitute

“that amount in column B, the maximum contribution of the person is the amount”.

- (11) Schedule 3, Part I, subparagraph (c)(i)—

Repeal

“of his financial resources indicated opposite”

Substitute

“of the financial resources of the person, indicated opposite those amounts”.

- (12) Schedule 3, Part I, subparagraph (c)(i), column A—

Repeal

“his financial resources”

Substitute

“the financial resources of the aided person”.

- (13) Schedule 3, Part I, subparagraph (c)(i), column C—

Repeal

“in relation to his financial resources, his maximum contribution”

Substitute

“the person’s maximum contribution”.

- (14) Schedule 3, English text, Part I, subparagraph (c)(ii)—

Repeal

“if his financial resources”

Substitute

“if the financial resources of the person”.

- (15) Schedule 3, Part I, subparagraph (c)(ii)—

Repeal

“be 67% of his”

Substitute

“the maximum contribution of the person is 67% of the person’s”.

- (16) Schedule 3—

Repeal Part III

Substitute

“Part III

**Percentage of Value of Recovered or Preserved
Property**

3. For proceedings mentioned in paragraph 1, 2 or 3 of Part I of Schedule 3 to the Ordinance—
- (a) except as otherwise provided in subparagraph (b), if the claim is settled before the date of commencement of the trial, the rate of contribution is 6%;

Legal Aid (Assessment of Resources and Contributions) (Amendment)
Regulation 2012

L.N. 146 of 2012

Section 5

B6365

-
- (b) if the claim is settled before the date of commencement of the trial but after a brief for attendance at trial is delivered to counsel, the rate of contribution is 10%; and
 - (c) in any other case, the rate of contribution is 10%.
 - 4. For proceedings mentioned in paragraph 4, 5, 6 or 7 of Part I of Schedule 3 to the Ordinance—
 - (a) except as otherwise provided in subparagraph (b), if the claim is settled before the date of commencement of the trial, the rate of contribution is 15%;
 - (b) if the claim is settled before the date of commencement of the trial but after a brief for attendance at trial is delivered to counsel, the rate of contribution is 20%; and
 - (c) in any other case, the rate of contribution is 20%.
 - 5. For proceedings mentioned in paragraph 8 of Part I of Schedule 3 to the Ordinance—
 - (a) except as otherwise provided in subparagraph (b), if the claim is settled before the date of commencement of the hearing of the appeal in the Court of First Instance, the rate of contribution is 6%;
 - (b) if the claim is settled before the date of commencement of the hearing of the appeal in the Court of First Instance but after a brief for attendance at the hearing is delivered to counsel, the rate of contribution is 10%; and

Legal Aid (Assessment of Resources and Contributions) (Amendment)
Regulation 2012

L.N. 146 of 2012

Section 5

B6367

(c) in any other case, the rate of contribution is
10%.”.

Manda CHAN
Clerk to the Executive Council

COUNCIL CHAMBER

25 September 2012

Legal Aid (Assessment of Resources and Contributions) (Amendment)
Regulation 2012

Explanatory Note
Paragraph 1

L.N. 146 of 2012
B6369

Explanatory Note

The main purpose of this Regulation is to amend the Legal Aid (Assessment of Resources and Contributions) Regulations (Cap. 91 sub. leg. B) (*principal Regulations*) to adjust or provide for the contributions payable by persons to whom legal aid are granted under the Supplementary Legal Aid Scheme.

2. Revisions are also made to regulation 14 of, and Schedule 3 to, the principal Regulations to improve the comprehensibility of the provisions or to replace the gender-specific language by gender-neutral language.