

立法會
Legislative Council

LC Paper No. CB(3) 160/13-14

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Tel : 3919 3300

Date : 11 November 2013

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 27 November 2013

Proposed resolution under the Criminal Procedure Ordinance

The Secretary for Home Affairs will move at the Council meeting of 27 November 2013 a proposed resolution under section 9A of the Criminal Procedure Ordinance (Cap. 221). The proposed resolution is attached for Members' consideration. The President has directed that it be printed in the terms in which it was handed in on the Agenda of the Council.

2. The speech, in both Chinese and English, which the Secretary will deliver when moving the proposed resolution is also attached.

(Odelia LEUNG)
for Clerk to the Legislative Council

Encl.

Criminal Procedure Ordinance

Resolution

(Under section 9A of the Criminal Procedure Ordinance (Cap. 221))

Resolved that the Legal Aid in Criminal Cases (Amendment) Rules 2013, made by the Criminal Procedure Rules Committee on 4 October 2013, be approved.

Legal Aid in Criminal Cases (Amendment) Rules 2013

(Made by the Criminal Procedure Rules Committee under section 9A of the Criminal Procedure Ordinance (Cap. 221) with the approval of the Legislative Council)

1. Legal Aid in Criminal Cases Rules amended

The Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg. D) are amended as set out in rules 2 and 3.

2. Rule 21 amended (solicitor and counsel fees)

(1) Rule 21(8)(a)(i)—

Repeal

“\$620”

Substitute

“\$670”.

(2) Rule 21(8)(a)(ii)—

Repeal

“\$1,150”

Substitute

“\$1,250”.

(3) Rule 21(8)(a)(iii)—

Repeal

“\$960”

Substitute

“\$1,040”.

(4) Rule 21(8)(b)(i)—

Repeal

“\$740”

Substitute

“\$800”.

(5) Rule 21(8)(b)(ii)—

Repeal

“\$1,170”

Substitute

“\$1,270”.

(6) Rule 21(8)(c)(i)—

Repeal

“\$1,000”

Substitute

“\$1,090”.

(7) Rule 21(8)(c)(ii)—

Repeal

“\$1,170”

Substitute

“\$1,270”.

3. Schedule amended (solicitor and counsel fees)

(1) The Schedule, Part 2, item 1(a)—

Repeal

“\$740”

Substitute

“\$800”.

(2) The Schedule, Part 2, item 1(b)(i)—

- Repeal**
“\$2,960”
- Substitute**
“\$3,230”.
- (3) The Schedule, Part 2, item 1(b)(ii)—
- Repeal**
“\$2,960”
- Substitute**
“\$3,230”.
- (4) The Schedule, Part 2, item 1(c)—
- Repeal**
“\$740”
- Substitute**
“\$800”.
- (5) The Schedule, Part 2, item 1(d)—
- Repeal**
“\$5,930”
- Substitute**
“\$6,480”.
- (6) The Schedule, Part 2, item 2(a)—
- Repeal**
“\$740”
- Substitute**
“\$800”.
- (7) The Schedule, Part 2, item 2(b)(i)—
- Repeal**

- “\$2,960”
- Substitute**
“\$3,230”.
- (8) The Schedule, Part 2, item 2(b)(ii)—
- Repeal**
“\$2,960”
- Substitute**
“\$3,230”.
- (9) The Schedule, Part 2, item 2(c)—
- Repeal**
“\$740”
- Substitute**
“\$800”.
- (10) The Schedule, Part 2, item 2(d)—
- Repeal**
“\$5,930”
- Substitute**
“\$6,480”.
- (11) The Schedule, Part 2, item 3(a)—
- Repeal**
“\$1,000”
- Substitute**
“\$1,090”.
- (12) The Schedule, Part 2, item 3(b)(i)—
- Repeal**
“\$4,020”

- Substitute**
“\$4,390”.
- (13) The Schedule, Part 2, item 3(b)(ii)—
Repeal
“\$4,020”
Substitute
“\$4,390”.
- (14) The Schedule, Part 2, item 3(c)—
Repeal
“\$1,000”
Substitute
“\$1,090”.
- (15) The Schedule, Part 2, item 3(d)—
Repeal
“\$8,040”
Substitute
“\$8,780”.
- (16) The Schedule, Part 2, item 4(a)—
Repeal
“\$1,000”
Substitute
“\$1,090”.
- (17) The Schedule, Part 2, item 4(b)(i)—
Repeal
“\$4,020”
Substitute

- “\$4,390”.
- (18) The Schedule, Part 2, item 4(b)(ii)—
Repeal
“\$4,020”
Substitute
“\$4,390”.
- (19) The Schedule, Part 2, item 4(c)—
Repeal
“\$1,000”
Substitute
“\$1,090”.
- (20) The Schedule, Part 2, item 4(d)—
Repeal
“\$8,040”
Substitute
“\$8,780”.
- (21) The Schedule, Part 2, item 5(a)—
Repeal
“\$620”
Substitute
“\$670”.
- (22) The Schedule, Part 2, item 5(b)(i)—
Repeal
“\$2,510”
Substitute
“\$2,740”.

- (23) The Schedule, Part 2, item 5(b)(ii)—
Repeal
“\$2,510”
Substitute
“\$2,740”.
- (24) The Schedule, Part 2, item 5(c)—
Repeal
“\$620”
Substitute
“\$670”.
- (25) The Schedule, Part 2, item 5(d)—
Repeal
“\$5,030”
Substitute
“\$5,490”.
- (26) The Schedule, Part 2, item 6(a)(i)—
Repeal
“\$9,240”
Substitute
“\$10,095”.
- (27) The Schedule, Part 2, item 6(a)(ii)—
Repeal
“\$4,610”
Substitute
“\$5,030”.
- (28) The Schedule, Part 2, item 6(b)(i)—

- Repeal**
“\$9,240”
Substitute
“\$10,095”.
- (29) The Schedule, Part 2, item 6(b)(ii)—
Repeal
“\$10,240”
Substitute
“\$11,190”.
- (30) The Schedule, Part 2, item 7(a)(i)—
Repeal
“\$11,220”
Substitute
“\$12,260”.
- (31) The Schedule, Part 2, item 7(a)(ii)—
Repeal
“\$4,710”
Substitute
“\$5,140”.
- (32) The Schedule, Part 2, item 7(b)—
Repeal
“\$11,220”
Substitute
“\$12,260”.
- (33) The Schedule, Part 2, item 8(a)(i)—
Repeal

- “\$11,220”
Substitute
 “\$12,260”.
 (34) The Schedule, Part 2, item 8(a)(ii)—
Repeal
 “\$4,710”
Substitute
 “\$5,140”.
 (35) The Schedule, Part 2, item 8(b)—
Repeal
 “\$11,220”
Substitute
 “\$12,260”.
 (36) The Schedule, Part 2, item 9(a)(i)—
Repeal
 “\$14,960”
Substitute
 “\$16,350”.
 (37) The Schedule, Part 2, item 9(a)(ii)—
Repeal
 “\$4,710”
Substitute
 “\$5,140”.
 (38) The Schedule, Part 2, item 9(b)—
Repeal
 “\$14,960”

- Substitute**
 “\$16,350”.
 (39) The Schedule, Part 2, item 10(a)(i)—
Repeal
 “\$11,960”
Substitute
 “\$13,070”.
 (40) The Schedule, Part 2, item 10(a)(ii)—
Repeal
 “\$4,710”
Substitute
 “\$5,140”.
 (41) The Schedule, Part 2, item 10(b)—
Repeal
 “\$11,960”
Substitute
 “\$13,070”.
 (42) The Schedule, Part 2, item 11(a)(i)—
Repeal
 “\$7,470”
Substitute
 “\$8,160”.
 (43) The Schedule, Part 2, item 11(a)(ii)—
Repeal
 “\$3,860”
Substitute

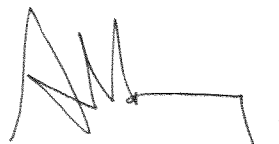
- “\$4,210”.
- (44) The Schedule, Part 2, item 11(b)—
Repeal
 “\$7,470”
Substitute
 “\$8,160”.
- (45) The Schedule, Part 2, item 13—
Repeal
 “\$1,170”
Substitute
 “\$1,270”.
- (46) The Schedule, Part 2, item 14—
Repeal
 “\$960”
Substitute
 “\$1,040”.
- (47) The Schedule, Part 2, item 17(a)—
Repeal
 “\$8,970”
Substitute
 “\$9,800”.
- (48) The Schedule, Part 2, item 18(a)—
Repeal
 “\$2,420”
Substitute
 “\$2,640”.

- (49) The Schedule, Part 2, item 18(b)—
Repeal
 “\$1,990”
Substitute
 “\$2,170”.
- (50) The Schedule, Part 2, item 19(a)—
Repeal
 “\$8,970”
Substitute
 “\$9,800”.
- (51) The Schedule, Part 2, item 19(b)—
Repeal
 “\$4,480”
Substitute
 “\$4,890”.
- (52) The Schedule, Part 2, item 20—
Repeal
 “\$2,970”
Substitute
 “\$3,240”.

4. Transitional provisions

The Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg. D) (*principal Rules*) as amended by these Rules apply only in relation to a solicitor or counsel assigned under the principal Rules on or after the date on which these Rules come into operation.

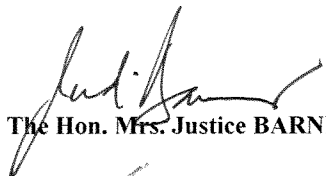
Made this 4th day of October 2013.



The Hon. Mr. Justice CHEUNG
Chief Judge of the High Court



The Hon. Mr. Justice LUNN J.A.



The Hon. Mrs. Justice BARNES



Selwyn YU, S.C.



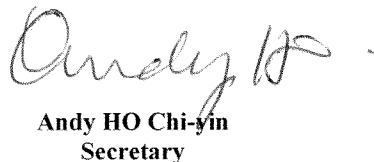
Kenneth NG Hung-sui



William TAM Yid-ho



Allan CHAN Wing-cho



Andy HO Chi-yin
Secretary

Explanatory Note

Solicitors or counsel assigned under the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg. D) (*principal Rules*) to represent legally aided persons are remunerated according to the Table of Fees in the Schedule to the principal Rules. The Director of Legal Aid may re-determine the fees in certain circumstances in accordance with the rates in rule 21(8) of the principal Rules.

2. These Rules adjust the fees payable under that Table and that rule (see rules 2 and 3). Rule 4 provides for transitional arrangements.

(Translation)

**Speech by the Secretary for Home Affairs
at the Legislative Council meeting on 27 November 2013**

Legal Aid in Criminal Cases (Amendment) Rules 2013

President,

I move the Resolution standing in my name on the agenda.

2. The Legal Aid in Criminal Cases Rules (“LACCR”), made under section 9A of the Criminal Procedure Ordinance (“CPO”) (Cap. 221), set out the fees payable to counsel and solicitors in private practice engaged to represent legally aided persons in criminal cases. The Department of Justice draws reference to the amounts as set out in LACCR when engaging counsel in private practice to appear for the Government in criminal cases. The specified amounts are also referenced for determining the fees payable to duty lawyers providing legal assistance under the Duty Lawyer Scheme.

3. Pursuant to the decision of the Legislative Council (“LegCo”) Finance Committee in October 1992, the criminal legal aid fees as set out in LACCR are subject to review by the Administration on a biennial basis. In conducting the review, the Administration takes into account the inflation during the reference period, and whether there has been any difficulty in engaging the services of counsel and solicitors. We have completed the latest review of criminal legal aid fees. As the Consumer Price Index (C) has increased by 9.3% during the reference period (i.e. July 2010 to July 2012), we therefore propose that the fees should be correspondingly adjusted upward by 9.3%.

4. We have informed the LegCo Panel on Administration of Justice and Legal Services and the Legal Aid Services Council of the proposed fee adjustment in June 2013. The Criminal Procedure Rules Committee has made the subject Amendment Rules in accordance with section 9A of CPO in order to bring the proposed fees into operation. The Criminal

Procedure Rules Committee is chaired by the Chief Judge of the High Court, with members comprising representatives from the Department of Justice, the Legal Aid Department, the Hong Kong Bar Association and the Law Society of Hong Kong. The subject Amendment Rules require the approval of this Council by resolution.

5. I would like to add that, with the support of the two legal professional bodies, the Administration formulated the Legal Aid in Criminal Cases (Amendment) Rules 2012 (“2012 Amendment Rules”) last year with a view to clarifying and expanding the scope of legal aid in criminal cases, and improving the payment structure of the criminal legal aid fees system. The 2012 Amendment Rules commenced operation in March 2012. During the formulation process, the Administration had undertaken to review the revised rates of the criminal legal aid fees in two years’ time upon implementation of the 2012 Amendment Rules. We will maintain liaison with two legal professional bodies and commence the review next year.

6. I invite Members to support the Resolution. Thank you, Mr President.