

LEGISLATIVE COUNCIL BRIEF
High Court Ordinance (Chapter 4)
RULES OF THE HIGH COURT (AMENDMENT) RULES 2014

INTRODUCTION

Section 54 of the High Court Ordinance (“the Ordinance”, Cap. 4) provides that the Rules Committee constituted under section 55 of the Ordinance may make rules of court regulating and prescribing the procedure and the practice to be followed in the High Court. By virtue of section 28(1)(c) of the Interpretation and General Clauses Ordinance (Cap.1), where an ordinance confers power on a person to make subsidiary legislation, the subsidiary legislation may at any time be amended by the same person and in the same manner by and in which it was made.

2. In exercise of this power, the High Court Rules Committee has made the Rules of the High Court (Amendment) Rules 2014 (at **Annex A**). The purpose of the Amendment Rules is to amend the maximum amount of the support and maintenance allowance (“the Allowance”) to judgment debtor as set out in Rule 2 of Order 49B of the Rules of High Court (Cap. 4A).

BACKGROUND AND ARGUMENT

3. When a judgment debtor is committed to prison in execution of the judgment debt, the High Court shall fix whatever a monthly allowance it may think sufficient for his support and maintenance to be payable by the person at whose instance the judgment has been executed to the Commissioner of Correctional Services according to Rule 2 of Order 49B of the Rules of High Court (Cap. 4A). The maximum level of Allowance is \$660 per diem.

4. In line with the “user pays” principle, it is Government’s policy that fees charged for government services should in general be set at levels adequate to recover the full cost of providing the services. The latest costing review at 2014-15 price level shows that the current cost recovery level of the Allowance is 75%, which is not adequate to recover the full cost of providing the services. Details of the cost computation are set out at **Annex B**.

5. In order to achieve full cost recovery gradually for providing the services and to avoid a steep fee increase, the Correctional Services Department (“CSD”) proposes to increase the Allowance by 10% from \$660 per diem to \$725 per diem. The impact of the proposed increase on judgment creditors is expected to be minimal as there has not been any case which involved the charging of the concerned Allowance in the last three financial years.

THE AMENDMENT RULES

6. The Amendment Rules at Annex A will give effect to the proposed increase as set out at para. 5 above. Subject to negative vetting of the Legislative Council, we propose that the new fee should come into effect on 28 November 2014.

LEGISLATIVE TIMETABLE

7. The legislative timetable of the Amendment Rules is as follows –

Publication in the Gazette	20 June 2014
Tabling at the Legislative Council	25 June 2014
Commencement	28 November 2014

EFFICIENCY INITIATIVE

8. CSD regularly reviews its day-to-day management and operational procedures with a view to reducing the cost of their services through implementing efficiency initiatives and streamlining procedures. Efficiency savings from these efforts have been factored into the calculation of the fees to be charged and costs incurred by CSD for the provision of its service.

IMPLICATIONS OF THE PROPOSAL

9. Additional revenue from the proposed increase on the Allowance should be minimal because such allowance has not been charged under the Rules of High Court in past three financial years. There are no economic, environmental or staffing implications. The Amendment Rules are in conformity with the Basic Law, including the provisions concerning human rights. The Amendment Rules do not affect the current binding effect of the High Court Ordinance and Rules of High Court referred to in paragraphs 1 and 2 above.

PUBLIC CONSULTATION

10. We issued a paper explaining the proposal to the Panel on Security of the Legislative Council on 18 March 2014. The Panel did not ask to discuss the proposed revision, and no views have been received from Members of the Panel. We have further sought the approval of the High Court Rules Committee on the proposed revision on the Allowance in May 2014.

PUBLICITY

11. The Amendment Rules will be published in the Gazette on 20 June 2014. A spokesperson will be available to answer any enquiries on this subject.

ENQUIRIES

12. For enquiries relating to this brief, please contact Miss Heidi IP, Assistant Secretary for Security, at telephone number 2810 2894.

Security Bureau
June 2014

Rules of the High Court (Amendment) Rules 2014

(Made by the Rules Committee of the High Court under section 54 of the High Court Ordinance (Cap. 4))

1. Commencement

These Rules come into operation on 28 November 2014.

2. Rules of the High Court amended

The Rules of the High Court (Cap. 4 sub. leg. A) are amended as set out in rule 3.

3. Order 49B, rule 2 amended (support and maintenance allowance to prisoner for debt)

Order 49B, rule 2—

Repeal

“\$660”

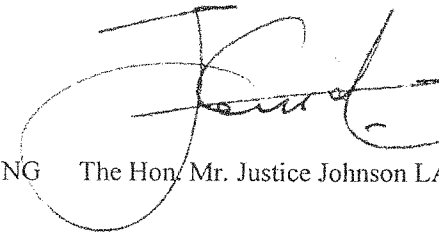
Substitute

“\$725”.

Made this 21st day of May 2014.



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



The Hon. Mr. Justice Johnson LAM V.P.



The Hon. Mr. Justice Thomas AU



Stewart WONG, S.C.



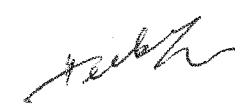
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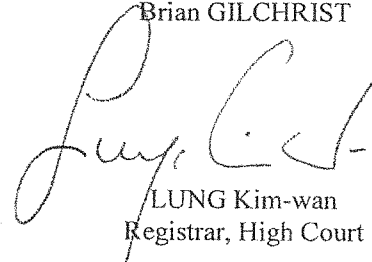
Nigel FRANCIS



Brian GILCHRIST



Herbert LI



LUNG Kim-wan
Registrar, High Court

Explanatory Note

These Rules amend Order 49B, rule 2 of the Rules of the High Court (Cap. 4 sub. leg. A) to increase the maximum amount of the allowance payable for the support and maintenance of a judgment debtor committed to prison in execution of the judgment.

COST COMPUTATION**Correctional Services Department**

**Maximum Support and Maintenance Allowance to Prisoner for Debt
Payable to the Correctional Services Department
Under Order 49B, Rule 2 of the Rules of the High Court (Cap. 4A)**

**Cost at 2014-15 Prices
(for maintaining one debtor for one day)**

	\$
Staff Costs	698
Departmental Expenses	155
Accommodation Costs	7
Depreciation	21
Central Administrative Overhead	3
Full Cost	884
Existing Maximum Allowance	\$660
Cost Recovery Rate	75%
Proposed Maximum Allowance	\$725