

立法會
Legislative Council

LC Paper No. LS62/14-15

**Paper for the House Committee Meeting
on 8 May 2015**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 24 April 2015**

Tabling in LegCo : Council meeting of 29 April 2015

Amendment to be made by : Council meeting of 27 May 2015 (or that of 17 June 2015 if extended by resolution)

**Legal Aid (Assessment of Resources and Contributions)
(Amendment) Regulation 2015**

(L.N. 78)

L.N. 78 is made by the Chief Executive in Council under section 28 of the Legal Aid Ordinance (Cap. 91) to amend the Legal Aid (Assessment of Resources and Contributions) Regulations (Cap. 91B).

Background

2. The Legal Aid Department administers the Ordinary Legal Aid Scheme (OLAS) and the Supplementary Legal Aid Scheme (SLAS) in accordance with Cap. 91. Under section 5(1) of Cap. 91, OLAS is available for any person whose assessed financial resources¹ do not exceed \$269,620 for specified civil proceedings. Under section 5A of Cap. 91, SLAS is available for any person to whom legal aid is not available under section 5 because his/her financial resources are in excess of \$269,620 but not in excess of \$1,348,100.

3. Section 18(1)(b) of Cap. 91 provides that an aided person shall pay to the Director of Legal Aid (the Director) a contribution in a case other than SLAS, i.e. OLAS, if so required by the Director, towards the sums that may be or become payable on his account by the Director. Regulation 13 of Cap. 91B provides that the maximum contribution of an aided person under section 18(1)(b) of Cap. 91 shall be a contribution in respect of his/her financial resources assessed in accordance with Part 1 of Schedule 3 to Cap. 91B. Both the maximum contribution and the ranges of financial resources are expressed in absolute amounts.

¹ Under regulation 2A of Cap. 91B, the financial resources of an aided person shall be assessed by multiplying that person's monthly disposable income by 12 and adding his disposable capital to that sum.

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4. The main purpose of L.N. 78 is to amend Part 1 of Schedule 3 to Cap. 91B so that –

- (a) the ranges of financial resources are expressed as percentages of the amount of financial resources that is specified in section 5(1) of the Legal Aid Ordinance (Cap. 91); and
- (b) the maximum contribution of an aided person is expressed as percentages of the person's financial resources.

5. Members may refer to the LegCo Brief (File Ref.: HAB/CR/19/1/65) issued by the Home Affairs Bureau in April 2015 for background information. A table showing the contributions payable under the current OLAS ranges of financial resources of an aided person and the arrangements introduced by L.N. 78 is at Annex C to the LegCo Brief.

6. According to the Clerk to the Panel on Administration of Justice and Legal Services (the Panel), at its meeting held on 16 February 2015, the Panel was briefed by the Administration on the proposed amendments to Schedule 3 to Cap. 91B which sought to revise the bandwidths of assessed financial resources of aided persons in relation to contributions payable under the OLAS, so that the bandwidths would be represented as percentages of the amount of financial resources specified in section 5(1) of Cap. 91 (which is defined as financial eligibility limit under regulation 2(1) of Cap. 91B as amended by section 3 of L.N. 78) rather than the current absolute figures; and would be more evenly distributed. The proposed amendments would avoid the need of regular legislative amendments in future to keep the bandwidths up-to-date with the financial eligibility limit under the OLAS as might be revised from time to time. Members generally supported the proposed amendments to Cap. 91B.

7. L.N. 78 comes into operation on 17 June 2015.

Concluding Observations

8. No difficulties have been identified in relation to the legal or drafting aspects of the above item of subsidiary legislation.

Prepared by

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