

LEGISLATIVE COUNCIL BRIEF

Legal Aid Ordinance
(Chapter 91)

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

INTRODUCTION

At the meeting of the Executive Council on 14 April 2015, the Council ADVISED and the Chief Executive ORDERED that under section 28 of the Legal Aid Ordinance (“LAO”) (Cap. 91), the Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulation 2015 (“Amendment Regulation”), at Annex A, should be made.

A

JUSTIFICATIONS

2. Technical legislative amendments are needed to implement a revised set of bandwidths of assessed financial resources¹ for determining contribution payable under the Legal Aid (Assessment of Resources and Contributions) Regulations (“LAR”) (Cap. 91 sub. leg. B), so that the bandwidths are more evenly distributed. The proposed amendments will also avoid the need for regular legislative amendments in future to keep the bandwidths up-to-date with the financial eligibility limit (“FEL”) under the Ordinary Legal Aid Scheme (“OLAS”) as may be revised from time to time.

3. The Amendment Regulation will amend Schedule 3 to the LAR to revise the bandwidths of assessed financial resources of aided persons (“APs”) in relation to the contribution payable under the OLAS (“resources bandwidths”) (as elaborated in paragraphs 9 to 13 below), so that –

¹ “Financial resources” means the aggregate of an applicant’s disposable income within a 12-month period 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-money resources and the value of business or share in a company, minus deductible items as allowed under the LAO.

- (a) the resources bandwidths would be represented as percentages of the FEL of the OLAS rather than the current absolute dollar figures; and
- (b) a more even distribution of resources bandwidths could be maintained.

Financial eligibility limits

4. The Legal Aid Department (“LAD”) administers the OLAS² and the Supplementary Legal Aid Scheme (“SLAS”)³ in accordance with the LAO. Under the LAO, only applicants who have passed the means and merits tests are eligible for legal aid. For the means test, the OLAS FEL is specified in Section 5(1) of the LAO, which is currently pitched at \$269,620.

5. Additionally, Section 5AA of the LAO provides that the Director of Legal Aid (“DLA”) may waive the OLAS FEL for applicants in meritorious cases in which a breach of the Hong Kong Bill of Rights Ordinance (Cap. 383) or an inconsistency with the International Covenant on Civil and Political Rights as applied to Hong Kong is an issue (“human rights cases”).

6. The OLAS FEL is regularly adjusted to take into account changes in the Consumer Price Index (C) (“CPI(C)”) and the financial eligibility of legal aid applicants, etc. Pursuant to a comprehensive review to enhance access to legal aid, the OLAS FEL was significantly increased from \$175,800 to \$260,000 (an increase of 48%) in May 2011. In June 2013, it was further increased to \$269,620 in accordance with the CPI(C) changes between July 2011 and July 2012.

² With the exception of a few “excepted proceedings”, the OLAS covers most proceedings heard at District Court level and above.

³ The SLAS is a self-financing scheme which aimed at providing legal assistance to the “sandwich class” (the current FEL is set at \$1,348,100). Its scope covers (a) claims relating to personal injuries, (b) employees compensation, (c) medical, dental, legal and other professional negligence, (d) negligence claims against insurers or their intermediaries in respect of the taking out of personal insurance products, (e) monetary claims against the vendors in the sale of completed or uncompleted first-hand residential properties, and (f) representation for employees in appeals against awards made by the Labour Tribunal.

Contributions

7. As legal aid services are supported by public funds, APs are required to pay a contribution proportionate to their means, depending on the level of their assessed financial resources. The scales of contribution rates under the OLAS are specified in Part 1 of Schedule 3 to the LAR (B (“bandwidth tables”) (at **Annex B**).

8. Paragraphs (a) and (b) of Part 1 of Schedule 3 to the LAR set out the contribution rates for OLAS APs in general, while paragraph (c) sets out the contribution rates for APs of human rights cases whose financial resources may exceed the OLAS FEL. Except for the references to the OLAS FEL as specified under Section 5(1) of the LAO, the rest of the resources bandwidths are set out in absolute dollar figures in the bandwidth tables of the current LAR.

Proposed amendments to the resources bandwidths

Resources bandwidths as percentages of the OLAS FEL

9. With the current resources bandwidths set out in absolute dollar figures and the significant increase in the OLAS FEL in recent years, the OLAS FEL has now almost caught up to the ceiling of the next higher resources band (\$269,700) as shown in row (i) in the table below –

	Assessed financial resources		Payable contribution – amount / percentage of assessed financial resources
	Exceeding	Not exceeding	
(a)	≤ \$20,000		\$0
(b)	\$20,000	\$40,000	\$1,000
(c)	\$40,000	\$60,000	\$2,000
(d)	\$60,000	\$80,000	5%
(e)	\$80,000	\$100,000	10%
(f)	\$100,000	\$120,000	15%
(g)	\$120,000	\$144,000	20%
(h)	\$144,000	OLAS FEL [\$269,620] ⁴	25%

⁴ Whilst the OLAS FEL is currently set at \$269,620, as mentioned in paragraphs 5 and 8 above, the bandwidth table accommodates the circumstances in which legal aid applicants have assessed financial resources exceeding the OLAS FEL for human rights cases.

(i)	OLAS FEL [\$269,620]⁴	\$269,700	30%
(j)	\$269,700	\$369,700	35%
(k)	\$369,700	\$469,700	40%
(l)	\$469,700	\$569,700	45%
(m)	\$569,700	\$669,700	50%
(n)	\$669,700	\$769,700	55%
(o)	\$769,700	\$869,700	60%
(p)	\$869,700	\$1,200,000	65%
(q)	\$1,200,000	-	67%

[Table 1]

We are unable to further adjust the OLAS FEL upward before the resources bandwidths are amended, since otherwise, there will be an anomaly where the “lower end” of the band (i.e. second column) in row (i) will be higher than the “upper end” of the same band (i.e. third column).

10. To resolve the problem once and for all, we propose to amend the bandwidth tables so that the resources bandwidths will be represented as percentages of the OLAS FEL rather than absolute dollar figures. The resources bandwidths would then automatically be adjusted upon any future OLAS FEL adjustments.

Maintaining an even bandwidth distribution

11. Since only the OLAS FEL has been adjusted upward in the amendment exercises in recent years⁵, the resources bandwidths are now unevenly distributed, with some bands covering a very wide range of assessed financial resources while some other covering a very narrow range, as demonstrated in rows (h) and (i) in the table below –

	Banding of assessed financial resources	Range of banding as percentile of OLAS FEL	Contribution payable - amount / percentage of assessed financial resources
(a)	≤ \$20,000	7 th	\$0
(b)	\$20,000 – \$40,000	7 th – 15 th	\$1,000
(c)	\$40,000 – \$60,000	15 th – 22 nd	\$2,000
(d)	\$60,000 – \$80,000	22 nd – 30 th	5%
(e)	\$80,000 – \$100,000	30 th – 37 th	10%

⁵ The OLAS FEL was adjusted upwards by 1.6% in June 2006, by 2.5% in June 2007, by 2.1% in December 2007, by 6.1% in May 2009, by 48% in May 2011 and by 3.7% in June 2013.

(f)	\$100,000 – \$120,000	37 th – 45 th	15%
(g)	\$120,000 – \$144,000	45 th – 53 rd	20%
(h)	\$144,000 – OLAS FEL [\$269,620]	53rd – 100th	25%
(i)	OLAS FEL – \$269,700 [269,620]	100th – 101st	30%
(j)	\$269,700 – \$369,700	101 st – 137 th	35%
(k)	\$369,700 – \$469,700	137 th – 175 nd	40%
(l)	\$469,700 – \$569,700	175 nd – 210 th	45%
(m)	\$569,700 – \$669,700	210 th – 250 th	50%
(n)	\$669,700 – \$769,700	250 th – 285 th	55%
(o)	\$769,700 – \$869,700	285 th – 322 nd	60%
(p)	\$869,700 – \$1,200,000	322 nd – 445 th	65%
(q)	≥ \$1,200,000	455 th	67%

[Table 2]

12. As such, we propose to take the opportunity to adjust the distribution of resources bandwidths so as to maintain a more even distribution. To maintain the real value of the first two tiers of contribution payable in relation to APs' assessed financial resources, we also propose to amend the current fixed contribution amounts of \$1,000 and \$2,000 (in rows (b) and (c)) to 2% and 2.5% of the APs' assessed financial resources respectively. A table setting out the current arrangements and the proposed amendments is at **Annex C**.

13. The threshold of assessed financial resources exceeding which contributions begin to be payable is currently set at \$20,000, and we propose to change it to 12.5% of the OLAS FEL (i.e. \$33,702.5 by applying the current OLAS FEL). In 2013, 7 195 out of 10 024 APs (or 72%) need not pay any contribution at all as their financial resources were assessed to be below \$20,000. Under our proposal, the number of APs who do not need to pay any contribution will increase by 9% to 7 847 (or 78% of APs) based on the statistics in 2013. APs with assessed financial resources exceeding 12.5% of the OLAS FEL will need to pay a contribution ranging from \$674 (i.e. \$269,620×12.5%×2%) to \$67,405 (i.e. \$269,620×25%), depending on the level of their assessed financial resources. Further, for the APs of human rights cases whose financial resources may exceed the OLAS FEL, their contribution amount would range from \$80,886 (i.e. \$269,620×30%) to 67% of their assessed financial resources. An illustration table of the number of APs and their corresponding contribution bands based on the statistics in 2013 is at **Annex D** for reference.

Proposed adjustment to the OLAS FEL

14. Upon making the amendments to the LAR as set out in paragraphs 10 to 13 above, we can adjust the OLAS FEL upward to reflect the CPI(C) changes by way of a Legislative Council (“LegCo”) resolution. The last adjustment implemented in June 2013 had taken into account the CPI(C) change of +3.7% between July 2011 and July 2012. For the coming adjustment, we propose to increase the OLAS FEL by 7.7% to \$290,380 to reflect the accumulated change in CPI(C) recorded between July 2012 and July 2014.

OTHER OPTIONS

15. As the bandwidth tables are specified in the LAR, the proposed legislative amendments are necessary and administrative measures cannot achieve the purpose.

THE AMENDMENT REGULATION

16. The main provisions of the Amendment Regulation are –
- (a) section 1, which provides that the Amendment Regulation is to commence operation on 17 June 2015;
 - (b) section 3, which defines “financial eligibility limit” as the amount of financial resources specified in section 5(1) of the LAO; and
 - (c) sections 4 to 7, which amend Part 1 of Schedule 3 to the LAR to implement the proposed amendments to the bandwidth tables as set out in paragraphs 10 to 13 above, together with the necessary consequential amendments to regulations 8A and 14 of and Schedule 2 to the LAR.

E The existing provisions being amended are at Annex E.

LEGISLATIVE TIMETAMBE

17. The legislative timetable of the Amendment Regulation is as follows –

Publication in the Gazette	24 April 2015
Tabling at the LegCo for negative vetting	29 April 2015
Commencement	17 June 2015

IMPLICATIONS OF THE PROPOSAL

Financial and civil service implications

18. Looking strictly at the contribution receivable only, the LAD would have received around \$15.3 million less in contribution based on the statistics in 2013.

19. However, the contributions received do not go directly into the General Revenue Account. At the conclusion of a legally aided case, the contribution paid by an AP (and any damages and/or costs recovered from a successful case) would be kept by the DLA and be used to offset the expenses incurred by the LAD during the conduct of the case. The contribution paid represents the ceiling that the AP is liable to pay out of his or her own pockets. This notwithstanding, if the contribution paid exceeds the actual costs, the balance will be refunded to the AP.

20. As such, the revised resources bandwidths may lower the amount of contributions receivable by the LAD to offset the costs of legal aid cases, and in turn may increase the proportion of the costs to be borne by the LAD in conducting legal aid cases. However, as the contribution receivable, costs of a case and costs recoverable from an opposite party are dependent on the particular circumstances of each individual case, it is not possible to calculate how much additional cost the LAD would eventually have to bear. That said, as the majority of existing APs are actually not required to pay any contribution while the remainder are only required to pay at the lower contribution rates, the impact on the legal aid costs to be borne by the LAD should be minimal. The LAD will absorb the additional workload in effecting the legislative changes with its existing manpower resources.

Other implications

21. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the LAO and its subsidiary legislation. The proposal has no economic, productivity, environmental, sustainability or family implications.

PUBLIC CONSULTATION

22. At the respective meetings on 27 January 2015 and 16 February 2015, we have briefed and obtained the support of the Legal Aid Services Council and the LegCo Panel on Administration of Justice and Legal Services on the proposal as set out above.

PUBLICITY

23. A spokesperson will be made available to handle media enquiries.

BACKGROUND

24. The scales of contribution payable for civil legal aid cases under the OLAS are set out in Part 1 of Schedule 3 to the LAR. The scales set out in the LAR are also applicable to criminal legal aid cases as provided under the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg. D).

ENQUIRIES

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

Home Affairs Bureau
April 2015

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

L.N. 78 of 2015
B851

Section 1

L.N. 78 of 2015

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

(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 17 June 2015.
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 to 7.
3. **Regulation 2 amended (interpretation)**
Regulation 2(1)—
Add in alphabetical order
“*financial eligibility limit* (財務資格限額) means the amount of financial resources specified in section 5(1) of the Ordinance;”.
4. **Regulation 8A amended (resources of persons receiving Comprehensive Social Security Assistance)**
Regulation 8A—
Repeal
everything after “exceed” and before “unless”
Substitute
“12.5% of the financial eligibility limit”.

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

L.N. 78 of 2015
B853

Section 5

5. **Regulation 14 amended (contributions under the Supplementary Legal Aid Scheme)**
 - (1) Regulation 14(1)(a)—
Repeal
“limit prescribed in section 5 of the Ordinance”
Substitute
“financial eligibility limit”.
 - (2) Regulation 14(2)(a)—
Repeal
“limit prescribed in section 5 of the Ordinance”
Substitute
“financial eligibility limit”.
6. **Schedule 2 amended (rules for computing disposable capital)**
Schedule 2, rule 14—
Repeal
“that specified in section 5(1) of the Ordinance”
Substitute
“the financial eligibility limit”.
7. **Schedule 3 amended (contributions)**
 - (1) Schedule 3—
Repeal
“[regs. 8A, 13, 14 & 16]”

Section 7

Substitute

“[regs. 13, 14 & 16]”.

- (2) Schedule 3, Part 1, subparagraph (a)—

Repeal

“\$20,000”

Substitute

“12.5% of the financial eligibility limit”.

- (3) Schedule 3, Part 1, subparagraph (b)—

Repeal

everything after “an aided person”

Substitute

“, when expressed as a percentage of the financial eligibility limit, fall within a range of percentages specified in column 1 of Table 1, then the maximum contribution of the person is the percentage of the person’s financial resources specified in column 2 of that Table opposite the range; and

Table 1

Column 1	Column 2
Financial resources of an aided person (percentage of the financial eligibility limit)	Maximum contribution (percentage of the financial resources of the aided person)
1. Exceed 12.5% but do not exceed 25%	2%

Section 7

Column 1

Column 2

Financial resources of an aided person (percentage of the financial eligibility limit)

Maximum contribution (percentage of the financial resources of the aided person)

- | | |
|--|-------|
| 2. Exceed 25% but do not exceed 37.5% | 2.5% |
| 3. Exceed 37.5% but do not exceed 50% | 5% |
| 4. Exceed 50% but do not exceed 62.5% | 10% |
| 5. Exceed 62.5% but do not exceed 75% | 15% |
| 6. Exceed 75% but do not exceed 87.5% | 20% |
| 7. Exceed 87.5% but do not exceed 100% | 25%”. |
- (4) Schedule 3, Part 1—
- Repeal subparagraph (c)**
- Substitute**
- “(c) for an aided person whose legal aid certificate is for proceedings in which a breach of the Hong Kong Bill of Rights Ordinance (Cap. 383), or an inconsistency with the International Covenant on Civil and Political Rights as applied to Hong Kong, is an issue—

- (i) if the person's financial resources, when expressed as a percentage of the financial eligibility limit, fall within a range of percentages specified in column 1 of Table 2, then the maximum contribution of the person is the percentage of the person's financial resources specified in column 2 of that Table opposite the range; or
- (ii) if the person's financial resources exceed 500% of the financial eligibility limit, the maximum contribution of the person is 67% of the person's financial resources.

Table 2

Column 1	Column 2
Financial resources of an aided person (percentage of the financial eligibility limit)	Maximum contribution (percentage of the financial resources of the aided person)
1. Exceed 12.5% but do not exceed 25%	2%
2. Exceed 25% but do not exceed 37.5%	2.5%
3. Exceed 37.5% but do not exceed 50%	5%
4. Exceed 50% but do not exceed 62.5%	10%

Column 1	Column 2
Financial resources of an aided person (percentage of the financial eligibility limit)	Maximum contribution (percentage of the financial resources of the aided person)
5. Exceed 62.5% but do not exceed 75%	15%
6. Exceed 75% but do not exceed 87.5%	20%
7. Exceed 87.5% but do not exceed 100%	25%
8. Exceed 100% but do not exceed 150%	30%
9. Exceed 150% but do not exceed 200%	35%
10. Exceed 200% but do not exceed 250%	40%
11. Exceed 250% but do not exceed 300%	45%
12. Exceed 300% but do not exceed 350%	50%
13. Exceed 350% but do not exceed 400%	55%
14. Exceed 400% but do not exceed 450%	60%
15. Exceed 450% but do not exceed 500%	65%

Kinnie WONG
Clerk to the Executive Council

COUNCIL CHAMBER

14 April 2015

Explanatory Note

Under Schedule 3 to the Legal Aid (Assessment of Resources and Contributions) Regulations (Cap. 91 sub. leg. B) (*principal Regulations*), the maximum contribution of an aided person under the ordinary legal aid scheme is specified with reference to various ranges of financial resources. Both the maximum contribution and the ranges of financial resources are expressed in absolute amounts.

2. The main purpose of this Regulation is to amend the principal Regulations 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.

**Extract of the
Legal Aid (Assessment of Resources and Contributions) Regulations
(Cap. 91 sub. leg. B)**

Schedule:	3	Contributions
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PART 1

For the purposes of regulation 13 –

- (a) if the financial resources of an aided person do not exceed \$20000, the maximum contribution of the person is \$0;
- (b) except as provided in subparagraph (c), if the financial resources of an aided person exceed the amount indicated in column A but do not exceed the amount indicated opposite that amount in column B, the maximum contribution of the person is the amount or, as the case may be, the percentage of the financial resources of the person, indicated opposite those amounts in column C as follows –

A If the financial resources of the aided person exceed	B But do not exceed	C Then, the person's maximum contribution is
\$20000	\$40000	\$1000
\$40000	\$60000	\$2000
\$60000	\$80000	5%
\$80000	\$100000	10%
\$100000	\$120000	15%
\$120000	\$144000	20%
\$144000	the amount of financial resources specified in section 5(1) of the Ordinance	25%;

and

- (c) if the certificate of an aided person is for proceedings in which a breach of the Hong Kong Bill of Rights Ordinance (Cap 383) or an inconsistency with the International Covenant on Civil and Political Rights as applied to Hong Kong is an issue and –
 - (i) if the financial resources of the person exceed the amount indicated in column A but do not exceed the amount indicated opposite that amount in column B, the maximum contribution of the person is the amount or, as the case may be, the percentage of the financial resources of the person, indicated opposite those amounts in column C as follows –

A	B	C
If the financial resources of the aided person exceed	But do not exceed	Then, the person's maximum contribution is
\$20000	\$40000	\$1000
\$40000	\$60000	\$2000
\$60000	\$80000	5%
\$80000	\$100000	10%
\$100000	\$120000	15%
\$120000	\$144000	20%
\$144000	the amount of financial resources specified in section 5(1) of the Ordinance	25%
the amount of financial resources specified in section 5(1) of the Ordinance	\$269700	30%
\$269700	\$369700	35%
\$369700	\$469700	40%
\$469700	\$569700	45%
\$569700	\$669700	50%
\$669700	\$769700	55%
\$769700	\$869700	60%
\$869700	\$1200000	65%;

or

- (ii) if the financial resources of the person exceed \$1200000, the maximum contribution of the person is 67% of the person's financial resources.

Bandwidths for Contribution Payable by Aided Persons under OLAS

Assessed financial resources				Contribution Payable – amount / percentage of assessed financial resources	
Current		Proposed		Current	Proposed
Exceed	Not exceed	Exceed	Not exceed		
≤ \$20,000		≤ 12.5% OLAS FEL		\$0	\$0
\$20,000	- \$40,000	12.5% OLAS FEL	- 25% OLAS FEL	\$1,000	2%
\$40,000	- \$60,000	25% OLAS FEL	- 37.5% OLAS FEL	\$2,000	2.5%
\$60,000	- \$80,000	37.5% OLAS FEL	- 50% OLAS FEL	5%	5%
\$80,000	- \$100,000	50% OLAS FEL	- 62.5% OLAS FEL	10%	10%
\$100,000	- \$120,000	62.5% OLAS FEL	- 75% OLAS FEL	15%	15%
\$120,000	- \$144,000	75% OLAS FEL	- 87.5% OLAS FEL	20%	20%
\$144,000	- \$269,620	87.5% OLAS FEL	- 100% OLAS FEL	25%	25%
\$269,620	- \$269,700	100% OLAS FEL	- 150% OLAS FEL	30%	30%
\$269,700	- \$369,700	150% OLAS FEL	- 200% OLAS FEL	35%	35%
\$369,700	- \$469,700	200% OLAS FEL	- 250% OLAS FEL	40%	40%
\$469,700	- \$569,700	250% OLAS FEL	- 300% OLAS FEL	45%	45%
\$569,700	- \$669,700	300% OLAS FEL	- 350% OLAS FEL	50%	50%
\$669,700	- \$769,700	350% OLAS FEL	- 400% OLAS FEL	55%	55%
\$769,700	- \$869,700	400% OLAS FEL	- 450% OLAS FEL	60%	60%
\$869,700	- \$1,200,000	450% OLAS FEL	- 500% OLAS FEL	65%	65%
\$1,200,000	-	500% OLAS FEL	-	67%	67%

Illustration of the number of Aided Persons and their corresponding contribution bands based on the statistics in 2013

Current			Proposed		
Assessed financial resources (\$)	Amount payable range (\$)	No. of APs	Assessed financial resources (\$)	Amount payable range (\$)	No. of APs
≤ \$20,000	0	7 195	≤ \$33,702.50	0	7 847
20,000 - 40,000	1,000	887	33,702.50 - 67,405.00	674.05 - 1,348.10	918
40,000 - 60,000	2,000	543	67,405.00 - 101,107.50	1,685.13 - 2,527.69	521
60,000 - 80,000	3,000 - 4,000	386	101,107.50 - 134,810.00	5,055.38 - 6,740.50	255
80,000 - 100,000	8,000 - 10,000	259	134,810.00 - 168,512.50	13,481.00 - 16,851.25	202
100,000 - 120,000	15,000 - 18,000	168	168,512.50 - 202,215.00	25,276.88 - 30,332.25	111
120,000 - 144,000	24,000 - 28,800	157	202,215.00 - 235,917.50	40,443.00 - 47,183.50	107
144,000 - 269,620	36,000 - 65,000	420	235,917.50 - 269,620.00	58,979.38 - 67,405.00	54
	36,000 - 67,405				
269,620 - 269,700	80,886 - 80,910	-	269,620.00 - 404,430.00	80,886.00 - 121,329.00	6
269,700 - 369,700	94,395 - 129,395	6	404,430.00 - 539,240.00	141,550.50 - 188,734.00	-
369,700 - 469,700	147,880 - 187,880	-	539,240.00 - 674,050.00	215,696.00 - 269,620.00	1
469,700 - 569,700	211,365 - 256,365	-	674,050.00 - 808,860.00	303,322.50 - 363,987.00	1
569,700 - 669,700	284,850 - 334,850	1	808,860.00 - 943,670.00	404,430.00 - 471,835.00	-
669,700 - 769,700	368,335 - 423,335	-	943,670.00 - 1,078,480.00	519,018.50 - 593,164.00	1
769,700 - 869,700	461,820 - 521,820	1	1,078,480.00 - 1,213,290.00	647,088.00 - 727,974.00	-
869,700 - 1,200,000	565,305 - 780,000	1	1,213,290.00 - 1,348,100.00	788,638.50 - 876,265.00	-
≥ 1,200,000	≥ 804,000	-	> 1,348,100.00	≥ 903,227.00	-
Total APs:		10 024	Total APs:		10 024

Chapter:	91B	Title:	LEGAL AID (ASSESSMENT OF RESOURCES AND CONTRIBUTIONS) REGULATIONS	Gazette Number:	Annex E
Regulation:	2	Heading:	Interpretation	Version Date:	30/06/1997

- (1) In these regulations, unless the context otherwise requires-
- "application" (申請) means application for a legal aid certificate;
- "dependant" (受養人) means any person wholly maintained by the person concerned; (L.N. 105 of 1988)
- "Director" (署長) includes any public officer acting under the authority of regulation 3(2);
- "disposable capital" (可動用資產) or "disposable income" (可動用收入) means disposable capital or disposable income as determined or to be determined by the Director under these regulations;
- "income" (收入) means income as determined or to be determined by the Director and includes benefits and privileges;
- "period of computation" (計算期間) means the period of 12 months next ensuing from the date of the application for a certificate, or such other period of 12 months as in the particular circumstances of any case the Director may consider to be appropriate;
- "person concerned" (有關人士) means the person whose financial resources, income, disposable income or disposable capital is to be determined or redetermined or the person whose resources are to be treated as the resources of any other person, under these regulations. (L.N. 195 of 1992)
- (2) For the purposes of these regulations, the income of the person concerned includes any sums payable to that person for the purpose of the maintenance of an infant and any sum so payable under an order of a court or under any instrument. (L.N. 195 of 1992)
- (3) Where a person resides in more than one dwelling in which he has an interest his main dwelling shall, for the purposes of these regulations, be that determined by the Director.

Chapter:	91B	Title:	LEGAL AID (ASSESSMENT OF RESOURCES AND CONTRIBUTIONS) REGULATIONS	Gazette Number:	E.R. 1 of 2013
Regulation:	8A	Heading:	Resources of persons receiving Comprehensive Social Security Assistance	Version Date:	25/04/2013

For the purposes of determining the financial resources of a person receiving assistance under the Comprehensive Social Security Assistance Scheme administered by the Director of Social Welfare, it shall be presumed that the financial resources of that person do not exceed the amount prescribed in subparagraph (a) of Part 1 of Schedule 3 unless there are reasonable grounds to believe or suspect that the financial resources of that person may be such as to render him ineligible for legal aid or liable to pay a contribution by virtue of section 18(1) of the Ordinance.

(L.N. 148 of 2000; E.R. 1 of 2013)

Chapter: 91B Title: **LEGAL AID
(ASSESSMENT OF
RESOURCES AND
CONTRIBUTIONS)
REGULATIONS** Gazette Number: E.R. 1 of 2013

Regulation: 14 Heading: **Contributions under the
Supplementary Legal Aid
Scheme** Version Date: 25/04/2013

(1) 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 1, 2, 3 or 8 of Part 1 of Schedule 3 to the Ordinance- (L.N. 146 of 2012)

(a) the amount of the interim contribution payable by the aided person is 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; and
(b) the amount of any final contribution payable by the aided person is an amount equivalent to the aggregate of the following- (L.N. 146 of 2012)

- (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 3 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). (L.N. 148 of 2000; L.N. 146 of 2012)

(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 1 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 3 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). (L.N. 146 of 2012)

(E.R. 1 of 2013)

Chapter: 91B Title: **LEGAL AID
(ASSESSMENT OF
RESOURCES AND** Gazette Number: L.N. 84 of 2011

**CONTRIBUTIONS)
REGULATIONS**

Schedule: 2

Heading:

**RULES FOR
COMPUTING
DISPOSABLE CAPITAL**

Version Date: 18/05/2011

[regulation 4(b)]
(L.N. 148 of 2000)

1. Subject to the provisions of these regulations or rules, there shall be included in the computation of the amount of the capital of the person concerned the amount or value of every resource of a capital nature ascertained as on the date of the application:

Provided that, where it is brought to the notice of the Director that, between the date of application and his determination there has been a substantial fluctuation in the value of a resource or there has been a substantial variation in the nature of a resource affecting the basis of computation of its value, or any resource has ceased to exist or a new resource has come into the possession of the person concerned, the Director shall compute the capital resources of that person in the light of such facts and the resources as so computed shall be taken into account in the Director's determination.

2. So far as any resource does not consist of money, the amount or value thereof shall be taken to be the amount which that resource would realize if sold in the open market or, if there is only a restricted market for that resource, the amount which it would realize in that market, or shall be taken to be the amount or value thereof assessed in such manner as appears to the Director to be just and equitable.

3. Where money is due to the person concerned, whether immediately payable or otherwise and whether the payment thereof is secured or not, the value shall be taken to be the present value thereof.

4. If the person concerned stands in relation to a company in a position analogous to that of a sole owner or partner in the business of that company, the Director may, in lieu of ascertaining the value of his stocks, shares, bonds or debentures in that company, treat that person as if he were such sole owner or partner and compute the amount of his capital in respect of that resource in accordance with rule 5.

5. Where the person concerned is or is to be treated as the sole owner of or a partner in any business, the value of such business or his share therein to that person shall be taken to be either-

(a) such sum, or his share of such sum, as the case may be, as could be withdrawn from the assets of such business without substantially impairing the profits of such business or the normal development thereof; or

(b) such sum as that person could borrow on the security of his interest in such business without injuring the commercial credit of that business,

whichever is the greater.

6. The value of any interest in reversion or remainder on the termination of a prior estate, whether legal or equitable, in any real or personal property or in a trust or other fund, whether the person concerned has the sole interest or an interest jointly or in common with other persons or whether his interest is vested or contingent, shall be computed in such manner as is both equitable and practicable.

7. Save in exceptional circumstances, nothing shall be included in the amount of capital of the person concerned in respect of-

- (a) the household furniture and effects of main or any dwelling house occupied by him;
- (b) articles of personal clothing; and
- (c) the personal tools and equipment of his trade, not being part of the plant or equipment of a business to which the provisions of rule 5 of this Schedule apply.

8. (1) The value of any interest in the only or main dwelling in which the person concerned resides shall be disregarded in computing the amount of his capital. (L.N. 195 of 1992)

(2) Where the person concerned resides in more than one dwelling in which he has an interest, the Director shall take into account in respect of the value to him of any interest in a dwelling which is not the main dwelling any sum which might be obtained by borrowing money on the security thereof.

9. Where the person concerned has received or is entitled to receive from a body of which he is a member a sum of money by way of financial assistance towards the cost of the proceedings in respect of which a certificate is applied for, such sum shall be disregarded.

10. The value of any life assurance or endowment policy shall be taken to be the amount which the person concerned could readily borrow on the security thereof.

11. (Repealed L.N. 195 of 1992)

12. Where an application relates to a claim for damages arising from personal injuries to, or the death of, any person, there shall be disregarded the amount of any compensation received by the person concerned under-

- (a) the Employees' Compensation Ordinance (Cap 282);
- (b) the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap 360); or (6 of 2008 s. 40)
- (c) the Occupational Deafness (Compensation) Ordinance (Cap 469).

(L.N. 186 of 1989; L.N. 107 of 1990; 21 of 1995 s. 45)

12A. (1) Where an application relates to a claim for damages arising from personal injury to a person, and monies have been received by the person concerned under an insurance policy in respect of the injury, there shall be disregarded such amount as the Director considers to be reasonable to provide for the care and medical treatment and appliance which are likely to be required by the injured person as a result of the injury over the 3-year period commencing on the date of application.

(2) In determining the amount to be disregarded under subsection (1), the Director shall have regard to the circumstances of the case, including but not limited to-

- (a) the amount, if any, actually incurred to provide for the care and medical treatment and appliance required by the injured person as a result of the injury during the 12-month period immediately preceding the date of application; and
- (b) the medical evidence, if any, as to the care and medical treatment and appliance which are likely to be required by the injured person as a result of the injury.

(L.N. 224 of 2005)

13. In computing the amount of the disposable capital of the person concerned, there shall be disregarded-

- (a) the amount of any moneys paid to him from the assistance fund established under section 3 of the Traffic Accident Victims (Assistance Fund) Ordinance (Cap 229);
- (b) the amount of any interim payment made to him in accordance with an order made under the Rules of the High Court (Cap 4 sub. leg. A), or in accordance with an agreement having the same effect as such an order; and (25 of 1998 s. 2)
- (c) such amount or value, if any, of a donation or gift received by him, as the Director considers to be reasonable having regard to the amount, value and nature of the donation or gift.

(L.N. 186 of 1989)

14. If the person concerned is of or over 60 years of age, in computing the amount of the disposable capital of the person, an amount equivalent to that specified in section 5(1) of the Ordinance in respect of financial resources is to be disregarded.

(L.N. 35 of 2011)

Chapter: 91B Title: **LEGAL AID
(ASSESSMENT OF
RESOURCES AND
CONTRIBUTIONS)
REGULATIONS** Gazette Number: 18 of 2014

Schedule: 3 Heading: **Contributions** Version Date: 05/12/2014

[regulations 8A, 13, 14 & 16]
(L.N. 148 of 2000; 18 of 2014 s. 154)

Part 1

For the purposes of regulation 13- (L.N. 146 of 2012)

- (a) if the financial resources of an aided person do not exceed \$20000, the maximum contribution of the person is \$0;
- (b) except as provided in subparagraph (c), if the financial resources of an aided person exceed the amount indicated in column A but do not exceed the amount indicated opposite that amount in column B, the maximum contribution of the person is the amount or, as the case may be, the percentage of the financial resources of the person, indicated opposite those amounts in column C as follows- (L.N. 146 of 2012)

A	B	C
If the financial resources of the aided person exceed	But do not exceed	Then, the person's maximum contribution is
\$20000	\$40000	\$1000
\$40000	\$60000	\$2000
\$60000	\$80000	5%
\$80000	\$100000	10%
\$100000	\$120000	15%
\$120000	\$144000	20%

\$144000 the amount of financial resources specified in section 5(1) of the Ordinance 25%;

and (L.N. 148 of 2000)

(c) if the certificate of an aided person is for proceedings in which a breach of the Hong Kong Bill of Rights Ordinance (Cap 383) or an inconsistency with the International Covenant on Civil and Political Rights as applied to Hong Kong is an issue and- (L.N. 146 of 2012)

(i) if the financial resources of the person exceed the amount indicated in column A but do not exceed the amount indicated opposite that amount in column B, the maximum contribution of the person is the amount or, as the case may be, the percentage of the financial resources of the person, indicated opposite those amounts in column C as follows- (L.N. 146 of 2012)

A If the financial resources of the aided person exceed	B But do not exceed	C Then, the person's maximum contribution is
\$20000	\$40000	\$1000
\$40000	\$60000	\$2000
\$60000	\$80000	5%
\$80000	\$100000	10%
\$100000	\$120000	15%
\$120000	\$144000	20%
\$144000	the amount of financial resources specified in section 5(1) of the Ordinance	25%
the amount of financial resources specified in section 5(1) of the Ordinance	\$269700	30%
\$269700	\$369700	35%
\$369700	\$469700	40%
\$469700	\$569700	45%
\$569700	\$669700	50%
\$669700	\$769700	55%
\$769700	\$869700	60%
\$869700	\$1200000	65%; or

(ii) if the financial resources of the person exceed \$1200000, the maximum contribution of the person is 67% of the person's financial resources. (L.N. 148 of 2000)

(L.N. 85 of 1997; L.N. 83 of 2004; L.N. 141 of 2006; L.N. 114 of 2007; L.N. 146 of 2012)

Part II

(Repealed L.N. 195 of 1992)

Part 3

Percentage of Value of Recovered or Preserved Property

3. For proceedings mentioned in paragraph 1, 2 or 3 of Part 1 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%;
- (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%.

(E.R. 1 of 2013)

4. For proceedings mentioned in paragraph 4, 5, 6 or 7 of Part 1 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%.

(E.R. 1 of 2013)

5. For proceedings mentioned in paragraph 8 of Part 1 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
- (c) in any other case, the rate of contribution is 10%.

(E.R. 1 of 2013)

(Part 3 replaced L.N. 146 of 2012)

Part IV

(Repealed L.N. 489 of 1995)

(Format changes—E.R. 1 of 2013)