

立法會
Legislative Council

LC Paper No. LS43/16-17

**Paper for the House Committee Meeting
on 17 March 2017**

**Legal Service Division Report on Proposed Resolutions under
section 9B of the Criminal Procedure Ordinance (Cap. 221) and
section 54 of the Coroners Ordinance (Cap. 504)**

The Chief Secretary for Administration has given notices to move, at the Council meeting of 29 March 2017, two proposed resolutions to seek the Legislative Council's approval of the Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2017 and the Coroners (Witnesses' Allowances) (Amendment) Rules 2017 (collectively referred to as "the Amendment Rules") respectively made by the Criminal Procedure Rules Committee under section 9B of the Criminal Procedure Ordinance (Cap. 221) and the Chief Justice under section 54 of the Coroners Ordinance (Cap. 504).

2. The maximum rates of allowances payable to witnesses in coroners' inquests under the Coroners (Witnesses' Allowances) Rules (Cap. 504E) are the same as those for witnesses in criminal proceedings under the Criminal Procedure (Witnesses' Allowances) Rules (Cap. 221B). The Amendment Rules seek to increase the rates of allowances payable to witnesses in criminal proceedings and coroners' inquests as follows:

Types of Allowances	Existing Rates	Proposed Rates
Maximum allowance for ordinary witness	\$445 for each day of attendance	\$515 for each day of attendance
	\$220 for not exceeding four hours	\$255 for not exceeding four hours
Maximum allowance for professional or expert witness	\$2,415 for each day of attendance	\$2,770 for each day of attendance
	\$1,205 for not exceeding four hours	\$1,385 for not exceeding four hours

3. According to paragraph 14 of the Legislative Council Brief (File Ref: CSO/ADM/CR 11/3221/97) dated 22 February 2017 issued by the Chief Secretary for Administration's Office and the Judiciary Administration ("JA"), the JA reviewed the current rates of allowances in 2016 following their last revision in 2015. Taking

into account the movements in the Median Monthly Employment Earnings of Employees from the third quarter of 2014 to the third quarter of 2016 and the mid-point salary changes of a Government Medical and Health Officer¹ from 1 April 2013 to 1 April 2016, the above new rates of allowances were proposed by JA and approved by the Secretary for Financial Services and the Treasury² to maintain the real value of the rates of allowances to minimize any financial loss suffered by members of the public testifying as witnesses in criminal proceedings and coroners' inquests.

4. Members may note that the Administration has also made the Allowances to Jurors (Amendment) Order 2017 (L.N. 27) and the Control of Obscene and Indecent Articles (Amendment) Regulation 2017 (L.N. 28) (both published in the Gazette on 24 February 2017) to increase the rates of allowances and fees payable to jurors and adjudicators of the Obscene Articles Tribunal respectively. The Legal Service Division's report on L.N. 27 and L.N. 28 was issued to Members on 15 March 2017 (LC Paper No. LS40/16-17).

5. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Panel noted at its meeting held on 19 December 2016 an information paper entitled "Allowances for Jurors and Witnesses and Fees Payable to Adjudicators", which was circulated to Panel members on 7 December 2016. No member raised any questions on the paper.

6. If the proposed resolutions are passed, the Amendment Rules will come into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.

7. No difficulties relating to the legal and drafting aspects of the Amendment Rules have been identified.

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¹ Under the adjustment mechanism approved by the Finance Committee of the Legislative Council in 1993, changes to the rates of allowances for ordinary witnesses are to be made in accordance with the movements in the Median Monthly Employment Earnings of Employees in Hong Kong, while those for professional or expert witnesses would be made in accordance with the changes in the mid-point salary of a Government Medical and Health Officer.

² At its meeting on 15 October 1993, the Finance Committee agreed that the former Secretary for the Treasury (now the Secretary for Financial Services and the Treasury) should be delegated the authority to approve future changes in the rates of allowances for witnesses.