

立法會
Legislative Council

LC Paper No. LS55/18-19

**Paper for the House Committee Meeting
on 15 March 2019**

**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 20 March 2019, two proposed resolutions to seek the Legislative Council's approval of the Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2019 and the Coroners (Witnesses' Allowances) (Amendment) Rules 2019 (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 ("CJ") 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	\$515 for each day of attendance	\$575 for each day of attendance
	\$255 for not exceeding four hours	\$285 for not exceeding four hours
Maximum allowance for professional or expert witness	\$2,770 for each day of attendance	\$3,065 for each day of attendance
	\$1,385 for not exceeding four hours	\$1,530 for not exceeding four hours

3. According to paragraph 14 of the Legislative Council Brief (File Ref: AW-275-015-002) dated 27 February 2019 issued by the Administration Wing of the Chief Secretary for Administration's Office and the Judiciary Administration ("JA"), the current rates of allowances were reviewed by JA in 2018 following their last revision in 2017. Taking into account the movements in the Median Monthly Employment Earnings of Employees from the third quarter of 2016 to the third

quarter of 2018 and the mid-point salary changes of a Government Medical and Health Officer¹ from 1 April 2016 to 1 April 2018, 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 2019 (L.N. 27) and the Control of Obscene and Indecent Articles (Amendment) Regulation 2019 (L.N. 26) (both published in the Gazette on 1 March 2019) to increase the rates of allowances payable to jurors in criminal or civil trials, or coroners' inquests and the fees payable to adjudicators of the Obscene Articles Tribunal respectively. The Legal Service Division's report on L.N. 26 and L.N. 27 was issued to Members on 13 March 2019 (LC Paper No. LS52/18-19).

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 2018 an information paper entitled "Allowances for Jurors and Witnesses and Fees Payable to Adjudicators", which was circulated to Panel members vide LC Paper No. CB(4)324/18-19(01) on 12 December 2018. No member raised any issues on the paper.

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

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

Prepared by

Mark LAM

Assistant Legal Adviser

Legislative Council Secretariat

13 March 2019

LS/R/6/18-19

¹ Under the adjustment mechanism approved by the Finance Committee ("FC") 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, FC 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.