

**立法會**  
***Legislative Council***

LC Paper No. LS85/19-20

**Paper for the House Committee Meeting  
on 29 May 2020**

**Legal Service Division Report on  
Proposed Resolution under section 9A  
of the Criminal Procedure Ordinance (Cap. 221)**

The Chief Secretary for Administration ("CS") has given notice to move a motion at the meeting of the Legislative Council ("LegCo") of 10 June 2020 to seek LegCo's approval of the Legal Aid in Criminal Cases (Amendment) Rules 2020 ("the Rules") made by the Criminal Procedure Rules Committee under section 9A of the Criminal Procedure Ordinance (Cap. 221) on 21 February 2020.<sup>1</sup>

2. The fees payable to solicitors or counsel in private practice engaged to undertake criminal litigation work on behalf of the Legal Aid Department are prescribed under rule 21(1) of the Legal Aid in Criminal Cases Rules (Cap. 221D) and set out in the Table of Fees in Part 2 of the Schedule to Cap. 221D ("the fees"). Pursuant to the Finance Committee's decision in October 1992, the fees are subject to review by the Administration on a biennial basis to take into account changes in the Consumer Price Index (C) ("CPI(C)") during the reference period. The last adjustment to the fees (L.N. 185 of 2017), which incorporated approximately a 4% increase to reflect the change in CPI(C) from July 2014 to July 2016, came into effect on 3 April 2018 (L.N. 5 of 2018).

3. The Rules seek to increase the fees further by approximately 4% to reflect the accumulated increase in CPI(C) during the reference period from July 2016 to July 2018. If approved by LegCo, the Rules would come into operation on 20 July 2020. By virtue of rule 4 of the Rules (which adds a new rule 24 to Cap. 221D), the new fees under the Rules apply only in relation to a solicitor or counsel assigned to an aided person under Cap. 221D on or after 20 July 2020.

4. According to the LegCo Brief (File reference: CSO/ADM CR 1/3230/89(13)) issued by CS's Office and the Legal Aid Department in May 2020, fees payable to lawyers in private practice engaged by the Department of Justice to appear for the prosecution in criminal cases, as well as those payable to duty lawyers providing legal assistance and representation to eligible defendants in

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<sup>1</sup> Under section 9A(1) of Cap. 221, the Criminal Procedure Rules Committee may, with the approval of LegCo, make rules providing for, among other matters, the scale of fees and costs which shall be paid to a solicitor or counsel acting for an aided person.

Magistrates' Courts, Juvenile Courts and the Coroner's Court under the Duty Lawyer Service, will also be adjusted administratively to reflect the 4% increase in CPI(C). Members may refer to the LegCo Brief for further background information.

5. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Administration consulted the Panel at its meeting on 28 January 2019 on the above proposal. The Panel indicated support for the proposed increase in the fees payable under Cap. 221D and urged for its early implementation. At the meeting, various views and concerns were raised by members, including factors that should be taken into account in the biennial reviews of the fees, and the disparity between the levels of criminal and civil legal aid fees.

6. No difficulties have been identified in relation to the legal and drafting aspects of the Rules.

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