

立法會
Legislative Council

LC Paper No. LS67/20-21

**Paper for the House Committee Meeting
on 23 April 2021**

**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 ("CS") has given notices to move, at the Legislative Council ("LegCo") meeting of 5 May 2021, two proposed resolutions to seek the LegCo's approval of the Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2021 and the Coroners (Witnesses' Allowances) (Amendment) Rules 2021 (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 criminal proceedings under the Criminal Procedure (Witnesses' Allowances) Rules (Cap. 221B) are the same as those for witnesses in coroners' inquests under the Coroners (Witnesses' Allowances) Rules (Cap. 504E). The Amendment Rules seek to increase the maximum rates of allowances payable to specified classes of witnesses in criminal proceedings and coroners' inquests as follows:

Types of Allowances	Existing Rates	Proposed Rates	Increase (%)
Maximum allowance for ordinary witness	\$575 for each day of attendance	\$615 for each day of attendance	7%
	\$285 for not exceeding four hours	\$305 for not exceeding four hours	7%
Maximum allowance for professional or expert witness	\$3,065 for each day of attendance	\$3,210 for each day of attendance	4.7%
	\$1,530 for not exceeding four hours	\$1,600 for not exceeding four hours	4.6%

3. According to paragraphs 8 and 10 of the LegCo Brief (File Ref: AW-275-015-002) issued by the Administration Wing of CS's Office and the Judiciary Administration ("JA") on 14 April 2021, witnesses' allowances in criminal proceedings and coroners' inquests are reviewed biennially and the last increases to these allowances came into operation on 1 January 2020 (L.N. 164 and L.N. 165 of 2019). The witnesses' allowances are proposed to be increased taking into account the movements in the overall Median Monthly Employment Earnings of Employees in Hong Kong from the third quarter of 2018 to the third quarter of 2020, the mid-point salary changes of a Medical and Health Officer from 1 April 2018 to 1 April 2020 and the need 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 Control of Obscene and Indecent Articles (Amendment) Regulation 2021 (L.N. 50) and the Allowances to Jurors (Amendment) Order 2021 (L.N. 51) (both published in the Gazette on 16 April 2021) to increase the rates of fees and allowances payable to adjudicators of the Obscene Articles Tribunal and jurors respectively. Members may refer to the Legal Service Division's report on L.N. 50 and L.N. 51 (LC Paper No. LS66/20-21).

5. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Panel noted at its meeting on 27 January 2021 JA's information paper (LC Paper No. CB(4)402/20-21(01)) on the above revisions to the witnesses' allowances. Members of the Panel did not raise any issues on the proposed increases.

6. If the proposed resolutions are passed by LegCo, the Amendment Rules would come into operation on 1 August 2021, the same date on which L.N. 50 and L.N. 51 come into operation.

7. No difficulties in relation to the legal and drafting aspects of the proposed resolutions have been identified.

Prepared by

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