

立法會
Legislative Council

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Tel : 3919 3300

Date : 9 September 2021

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 29 September 2021

Proposed resolution under the Criminal Procedure Ordinance

The Chief Secretary for Administration will move the proposed resolution in **Appendix 1** under section 9A of the Criminal Procedure Ordinance (Cap. 221) at the above meeting. The President has directed that the proposed resolution be printed in the terms in which it was handed in on the Agenda of the Council.

2. The speech which the Chief Secretary for Administration will deliver when moving the proposed resolution is in **Appendix 2**.

(Miranda HON)
for Clerk to the Legislative Council

Encls.

Criminal Procedure Ordinance

Resolution

(Under section 9A of the Criminal Procedure Ordinance (Cap. 221))

Resolved that the Legal Aid in Criminal Cases (Amendment) Rules 2021, made by the Criminal Procedure Rules Committee on 6 May 2021, be approved.

Legal Aid in Criminal Cases (Amendment) Rules 2021

(Made by the Criminal Procedure Rules Committee under section 9A of the Criminal Procedure Ordinance (Cap. 221) with the approval of the Legislative Council)

1. Legal Aid in Criminal Cases Rules amended

The Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg. D) are amended as set out in rules 2, 3 and 4.

2. Rule 21 amended (solicitor and counsel fees)

(1) Rule 21(8)(a)(i)—

Repeal

“\$900”

Substitute

“\$920”.

(2) Rule 21(8)(a)(ii)—

Repeal

“\$1,900”

Substitute

“\$1,950”.

(3) Rule 21(8)(a)(iii)—

Repeal

“\$1,680”

Substitute

“\$1,720”.

(4) Rule 21(8)(b)(i)—

Repeal

“\$1,080”

Substitute

“\$1,100”.

(5) Rule 21(8)(b)(ia)—

Repeal

“\$2,310”

Substitute

“\$2,370”.

(6) Rule 21(8)(b)(ii)—

Repeal

“\$2,050”

Substitute

“\$2,100”.

(7) Rule 21(8)(c)(i)—

Repeal

“\$1,460”

Substitute

“\$1,490”.

(8) Rule 21(8)(c)(ia)—

Repeal

“\$2,310”

Substitute

“\$2,370”.

(9) Rule 21(8)(c)(ii)—

Repeal

“\$2,050”

Substitute

“\$2,100”.

3. Rule 25 added

After rule 24—

Add

“25. Transitional provision—Legal Aid in Criminal Cases (Amendment) Rules 2021

If a solicitor or counsel is assigned to an aided person under these rules before the date on which the Legal Aid in Criminal Cases (Amendment) Rules 2021 (*amending Rules*) come into operation, these rules as in force immediately before that date continue to apply to the solicitor or counsel in respect of the assignment as if the amending Rules had not been made.”.

4. Schedule amended (solicitor and counsel fees)

(1) The Schedule, Part 2, item 1(a)—

Repeal

“\$1,080”

Substitute

“\$1,100”.

(2) The Schedule, Part 2, item 1(b)(i)—

Repeal

“\$4,360”

Substitute

“\$4,470”.

(3) The Schedule, Part 2, item 1(b)(ii)—

Repeal

“\$4,360”

Substitute

“\$4,470”.

(4) The Schedule, Part 2, item 1(c)—

Repeal

“\$1,080”

Substitute

“\$1,100”.

(5) The Schedule, Part 2, item 1(d)—

Repeal

“\$8,750”

Substitute

“\$8,980”.

(6) The Schedule, Part 2, item 2(a)—

Repeal

“\$1,080”

Substitute

“\$1,100”.

(7) The Schedule, Part 2, item 2(b)(i)—

Repeal

“\$4,360”

Substitute

“\$4,470”.

(8) The Schedule, Part 2, item 2(b)(ii)—

Repeal

- “\$4,360”
Substitute
 “\$4,470”.
- (9) The Schedule, Part 2, item 2(c)—
Repeal
 “\$1,080”
Substitute
 “\$1,100”.
- (10) The Schedule, Part 2, item 2(d)—
Repeal
 “\$8,750”
Substitute
 “\$8,980”.
- (11) The Schedule, Part 2, item 3(a)—
Repeal
 “\$1,460”
Substitute
 “\$1,490”.
- (12) The Schedule, Part 2, item 3(b)(i)—
Repeal
 “\$5,920”
Substitute
 “\$6,070”.
- (13) The Schedule, Part 2, item 3(b)(ii)—
Repeal
 “\$5,920”

- Substitute**
 “\$6,070”.
- (14) The Schedule, Part 2, item 3(c)—
Repeal
 “\$1,460”
Substitute
 “\$1,490”.
- (15) The Schedule, Part 2, item 3(d)—
Repeal
 “\$11,860”
Substitute
 “\$12,180”.
- (16) The Schedule, Part 2, item 4(a)—
Repeal
 “\$1,460”
Substitute
 “\$1,490”.
- (17) The Schedule, Part 2, item 4(b)(i)—
Repeal
 “\$5,920”
Substitute
 “\$6,070”.
- (18) The Schedule, Part 2, item 4(b)(ii)—
Repeal
 “\$5,920”
Substitute

- “\$6,070”.
- (19) The Schedule, Part 2, item 4(c)—
Repeal
 “\$1,460”
Substitute
 “\$1,490”.
- (20) The Schedule, Part 2, item 4(d)—
Repeal
 “\$11,860”
Substitute
 “\$12,180”.
- (21) The Schedule, Part 2, item 5(a)—
Repeal
 “\$900”
Substitute
 “\$920”.
- (22) The Schedule, Part 2, item 5(b)(i)—
Repeal
 “\$3,700”
Substitute
 “\$3,790”.
- (23) The Schedule, Part 2, item 5(b)(ii)—
Repeal
 “\$3,700”
Substitute
 “\$3,790”.

- (24) The Schedule, Part 2, item 5(c)—
Repeal
 “\$900”
Substitute
 “\$920”.
- (25) The Schedule, Part 2, item 5(d)—
Repeal
 “\$7,410”
Substitute
 “\$7,610”.
- (26) The Schedule, Part 2, item 5A(a)(i)—
Repeal
 “\$22,960”
Substitute
 “\$23,570”.
- (27) The Schedule, Part 2, item 5A(a)(ii)—
Repeal
 “\$9,290”
Substitute
 “\$9,540”.
- (28) The Schedule, Part 2, item 5A(b)(i)—
Repeal
 “\$22,960”
Substitute
 “\$23,570”.
- (29) The Schedule, Part 2, item 5A(b)(ii)—

- Repeal**
“\$25,450”
- Substitute**
“\$26,130”.
- (30) The Schedule, Part 2, item 5B(a)(i)—
Repeal
“\$22,960”
- Substitute**
“\$23,570”.
- (31) The Schedule, Part 2, item 5B(a)(ii)—
Repeal
“\$9,290”
- Substitute**
“\$9,540”.
- (32) The Schedule, Part 2, item 5B(b)(i)—
Repeal
“\$22,960”
- Substitute**
“\$23,570”.
- (33) The Schedule, Part 2, item 5B(b)(ii)—
Repeal
“\$25,450”
- Substitute**
“\$26,130”.
- (34) The Schedule, Part 2, item 5C(a)(i)—
Repeal

- “\$30,620”
- Substitute**
“\$31,440”.
- (35) The Schedule, Part 2, item 5C(a)(ii)—
Repeal
“\$9,290”
- Substitute**
“\$9,540”.
- (36) The Schedule, Part 2, item 5C(b)(i)—
Repeal
“\$30,620”
- Substitute**
“\$31,440”.
- (37) The Schedule, Part 2, item 5C(b)(ii)—
Repeal
“\$33,950”
- Substitute**
“\$34,860”.
- (38) The Schedule, Part 2, item 5D(a)(i)—
Repeal
“\$24,480”
- Substitute**
“\$25,140”.
- (39) The Schedule, Part 2, item 5D(a)(ii)—
Repeal
“\$9,290”

- Substitute**
“\$9,540”.
- (40) The Schedule, Part 2, item 5D(b)(i)—
Repeal
“\$24,480”
Substitute
“\$25,140”.
- (41) The Schedule, Part 2, item 5D(b)(ii)—
Repeal
“\$27,140”
Substitute
“\$27,870”.
- (42) The Schedule, Part 2, item 6(a)(i)—
Repeal
“\$15,270”
Substitute
“\$15,680”.
- (43) The Schedule, Part 2, item 6(a)(ii)—
Repeal
“\$7,610”
Substitute
“\$7,810”.
- (44) The Schedule, Part 2, item 6(b)(i)—
Repeal
“\$15,270”
Substitute

- “\$15,680”.
- (45) The Schedule, Part 2, item 6(b)(ii)—
Repeal
“\$16,940”
Substitute
“\$17,390”.
- (46) The Schedule, Part 2, item 7(a)(i)—
Repeal
“\$19,880”
Substitute
“\$20,410”.
- (47) The Schedule, Part 2, item 7(a)(ii)—
Repeal
“\$8,330”
Substitute
“\$8,550”.
- (48) The Schedule, Part 2, item 7(b)—
Repeal
“\$19,880”
Substitute
“\$20,410”.
- (49) The Schedule, Part 2, item 8(a)(i)—
Repeal
“\$19,880”
Substitute
“\$20,410”.

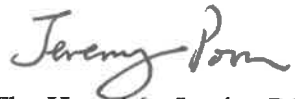
- (50) The Schedule, Part 2, item 8(a)(ii)—
Repeal
 “\$8,330”
Substitute
 “\$8,550”.
- (51) The Schedule, Part 2, item 8(b)—
Repeal
 “\$19,880”
Substitute
 “\$20,410”.
- (52) The Schedule, Part 2, item 9(a)(i)—
Repeal
 “\$26,530”
Substitute
 “\$27,240”.
- (53) The Schedule, Part 2, item 9(a)(ii)—
Repeal
 “\$8,330”
Substitute
 “\$8,550”.
- (54) The Schedule, Part 2, item 9(b)—
Repeal
 “\$26,530”
Substitute
 “\$27,240”.
- (55) The Schedule, Part 2, item 10(a)(i)—

- Repeal**
 “\$21,200”
Substitute
 “\$21,770”.
- (56) The Schedule, Part 2, item 10(a)(ii)—
Repeal
 “\$8,330”
Substitute
 “\$8,550”.
- (57) The Schedule, Part 2, item 10(b)—
Repeal
 “\$21,200”
Substitute
 “\$21,770”.
- (58) The Schedule, Part 2, item 11(a)(i)—
Repeal
 “\$13,220”
Substitute
 “\$13,570”.
- (59) The Schedule, Part 2, item 11(a)(ii)—
Repeal
 “\$6,830”
Substitute
 “\$7,010”.
- (60) The Schedule, Part 2, item 11(b)—
Repeal

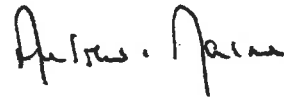
- “\$13,220”
Substitute
 “\$13,570”.
- (61) The Schedule, Part 2, item 13—
Repeal
 “\$2,050”
Substitute
 “\$2,100”.
- (62) The Schedule, Part 2, item 14—
Repeal
 “\$1,680”
Substitute
 “\$1,720”.
- (63) The Schedule, Part 2, item 17(a)—
Repeal
 “\$15,890”
Substitute
 “\$16,310”.
- (64) The Schedule, Part 2, item 18(a)—
Repeal
 “\$3,560”
Substitute
 “\$3,650”.
- (65) The Schedule, Part 2, item 18(b)—
Repeal
 “\$2,920”

- Substitute**
 “\$2,990”.
- (66) The Schedule, Part 2, item 19(a)—
Repeal
 “\$15,890”
Substitute
 “\$16,310”.
- (67) The Schedule, Part 2, item 19(b)—
Repeal
 “\$7,930”
Substitute
 “\$8,140”.
- (68) The Schedule, Part 2, item 20—
Repeal
 “\$5,250”
Substitute
 “\$5,390”.

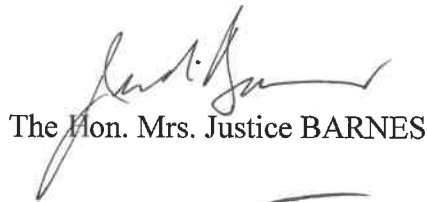
Made this 6th day of May 2021.



The Hon. Mr. Justice POON
Chief Judge of the High Court



The Hon. Mr. Justice MACRAE, V.P.



The Hon. Mrs. Justice BARNES



Andy HO
Senior Deputy Registrar, High Court



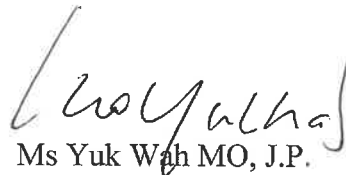
Ms Charlotte DRAYCOTT, S.C.



Eric CHEUNG



Jonathan MAN



Ms Yuk Wah MO, J.P.

Explanatory Note

The fees payable to solicitors and counsel assigned under the Legal Aid in Criminal Cases Rules (Cap. 221 sub. leg. D) (*principal Rules*) to represent legally aided persons are determined by the Director of Legal Aid (*Director*) according to the Table of Fees in the Schedule to the principal Rules. The Director may also re-determine some of the fees in certain circumstances under rule 21(8) of the principal Rules.

2. These Rules increase the fees payable under that rule and that Table (see rules 2 and 4). Rule 3 provides for transitional arrangements.

Draft

(Please check against final delivery)

**Speech by the Chief Secretary for Administration at the
Legislative Council meeting on 29 September 2021**

(Translation)

**Legal Aid in Criminal Cases (Amendment) Rules 2021 made under
Section 9A(1) of the Criminal Procedure Ordinance**

President,

I move the Resolution standing in my name on the agenda to make the Legal Aid in Criminal Cases (Amendment) Rules 2021 (“Amendment Rules”).

2. The Criminal Procedure Rules Committee makes the Legal Aid in Criminal Cases Rules (Cap. 221D) under section 9A(1) of the Criminal Procedure Ordinance (“CPO”) (Cap.221). It stipulates, among others, that the Legal Aid Department (“LAD”) will pay fees to counsel and solicitors in private practice engaged to undertake litigation work on its behalf for criminal cases in different levels of courts (i.e. criminal legal aid fees). Pursuant to section 9A(1) of the CPO, the Amendment Rules are subject to the approval of the Legislative Council (“LegCo”).

3. To ensure fairness between LAD and Department of Justice (“DoJ”) in recruiting lawyers for their service, DoJ draws reference to the criminal legal aid fees of LAD to engage counsel and solicitors in private practice to appear for the prosecution in criminal cases (i.e. prosecution fees). Duty lawyer fees will be paid to lawyers who provide legal representation to defendants in Magistrates’ Courts and Juvenile Courts

through the Duty Lawyer Service.

4. Since 1992, the fees mentioned above (“the Fees”, i.e. criminal legal aid fees, prosecution fees and duty lawyer fees) are subject to review on a biennial basis to take into account changes in Consumer Price Index (C) (“CPI(C)”) during the reference period. In conducting the biennial review, the Government mainly takes into account the general price movement during the reference period and whether there has been difficulty in engaging the services of counsel and solicitors.

5. We informed the LegCo Panel on Administration of Justice and Legal Services of the latest review results via an information note in February 2021. Regarding the biennial review for the reference period from July 2018 to July 2020, as the CPI(C) increased by 2.7%, we propose to adjust the Fees upwards by 2.7% accordingly. The Panel raised no objection to the proposed increase.

6. Upon implementation of the increased criminal legal aid fees by LAD, DoJ will simultaneously adjust the scale of prosecution fees administratively. The Administration Wing will also adjust the duty lawyer fees through administrative means accordingly.

7. Subject to LegCo’s approval of the Resolution, we will implement the Amendment Rules upon gazettal. Thank you, Mr President.

- End -