

立法會
Legislative Council

LC Paper No. LS118/20-21

**Paper for the House Committee Meeting
on 10 September 2021**

**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 29 September 2021 to seek LegCo's approval of the Legal Aid in Criminal Cases (Amendment) Rules 2021 ("the Rules") made by the Criminal Procedure Rules Committee under section 9A of the Criminal Procedure Ordinance (Cap. 221) on 6 May 2021.¹

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. 133 of 2020), which incorporated approximately a 4% increase to reflect the change in CPI(C) from July 2016 to July 2018, came into effect on 20 July 2020.

3. The Rules seek to increase the fees further by approximately 2.7% to reflect the accumulated increase in CPI(C) during the reference period from July 2018 to July 2020. If approved by LegCo, the Rules would come into

¹ 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.

operation on the date of its publication in the Gazette. Under rule 3 of the Rules (which adds a new rule 25 to Cap. 221D), the new fees proposed under the Rules would apply only in relation to an assignment of a solicitor or counsel to an aided person under Cap. 221D on or after the date on which the Rules come into operation.

4. According to paragraphs 2 and 4 of the LegCo Brief (File reference: AW-475-005-010-002-P001) issued by CS's Office and the Legal Aid Department in September 2021 and the draft Speech by CS, the 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 Magistrates' Courts, Juvenile Courts and the Coroner's Court under the Duty Lawyer Service, will also be adjusted administratively to reflect the 2.7% increase in CPI(C). Members may refer to Annex C to the LegCo Brief for a comparison of the current and proposed fees.

5. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Administration submitted an information paper to the Panel on 11 February 2021 to brief members on the above proposal. The information paper was issued to Panel members for reference on 11 February 2021 [LC Paper No. CB(4)515/20-21(02)] and was considered at the Panel meeting on 1 March 2021. Members did not raise any issue for discussion.

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

Prepared by

CHUI Ho-yin, Alvin
Assistant Legal Adviser
Legislative Council Secretariat
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