

立法會
Legislative Council

LC Paper No. CB(3)87/2024

Ref. : CB(3)/M/OR

Tel : 3919 3300

Date : 26 January 2024

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 31 January 2024

**Debate and voting arrangements for
two proposed resolutions to be moved by
the Chief Secretary for Administration**

Members were informed on 15 January 2024 that the Chief Secretary for Administration (“CS”) will respectively move the following two proposed resolutions at the Council meeting of 31 January 2024:

- (a) [first proposed resolution](#) under section 7(a) of the Legal Aid Ordinance (Cap. 91) (“LAO”); and
- (b) [second proposed resolution](#) under section 22A of LAO.

The speech (LC Paper No. CB(3)87/2024(01)) which CS will deliver when moving the above proposed resolutions is attached for Members’ information.

2. Given that the above two proposed resolutions both relate to adjustments to the financial eligibility limits under the Legal Aid Schemes, to make effective use of the Council’s time and avoid repetition of arguments, the President has decided that **a joint debate** be held on the two proposed resolutions and then they be **voted upon one by one**. I set out the relevant proceedings under which the President will:

- (a) first call upon CS to speak and move the first proposed resolution, and then propose the question on it to kick off the joint debate;

- (b) invite Members to speak;
- (c) call upon CS to reply and order that the debate comes to a close;
- (d) put to vote the question on the first proposed resolution; and
- (e) irrespective of whether the first proposed resolution is passed, invite CS to move the second proposed resolution and forthwith propose and put to vote the question on it.

3. Members are reminded that in accordance with Appendix IIIA to the House Rules, the **maximum duration of this joint debate (including voting on the two proposed resolutions) is four hours. Each Member may speak once up to a maximum of five minutes in the joint debate.** The public officer will not be subject to any speaking time limit.

4. For enquiries, please contact Senior Council Secretary (3)2, Mr Keith WONG, at tel. no. 3919 3308.

(Miranda HON)
for Clerk to the Legislative Council

Encl.

Draft

(Please check against final delivery)

**Speech by the Chief Secretary for Administration at the
Legislative Council meeting on 31 January 2024
(Translation)**

**Proposed Resolutions Moved
Under the Legal Aid Ordinance**

President,

I move that my first motion, as printed on the Agenda, be passed to adjust the financial eligibility limits ("FELs") for legal aid applicants. Later I will move another legal aid-related motion standing in my name as printed on the Agenda which seeks to adjust the Director of Legal Aid's ("DLA") First Charge.

(1) Proposed Resolution under Section 7(a) of the Legal Aid Ordinance ("LAO") (Cap. 91) regarding the FELs

2. I introduce the first Resolution.

3. Pursuant to section 7(a) of the LAO, the LegCo may by resolution amend the FELs specified in sections 5 and 5A of the LAO.

4. Legal aid services form an integral part of the legal system in Hong Kong. The policy objective of legal aid is to ensure that all those who comply with the regulations of the LAO and have reasonable grounds for pursuing or defending a legal action in the courts of Hong Kong will not be denied access to justice due to a lack of means. To qualify for legal aid, a person must satisfy both the means test and merits test as provided for in the LAO. FELs have been set respectively under the means tests of the Ordinary Legal Aid Scheme ("OLAS") and Supplementary Legal Aid Scheme ("SLAS").

5. Pursuant to the Government's report to the LegCo on the Legal Aid (Amendment) Bill 1999 in September 1999, FELs under OLAS and SLAS are subject to review annually to take into account general price movement as reflected by the Consumer Price Index (C) ("CPI(C)").

6. According to the latest round of annual review of FELs, for the

reference period from July 2022 to July 2023, the CPI(C) has increased by 1.8%. We propose to adjust the FELs upwards by 1.8%, namely –

- (a) from \$433,010 to \$440,800 for OLAS, and
- (b) from \$2,165,060 to \$2,204,030 for SLAS.

7. We informed the LegCo Panel on Administration of Justice and Legal Services of the above proposed increase via an information paper in December 2023. Members raised no objection to the proposal.

8. Subject to LegCo's approval of the Resolution, the adjusted FELs will come into effect upon gazettal.

(2) Proposed Resolution under Section 22A of the LAO Pursuant to the Review of Director of Legal Aid's ("DLA") First Charge

9. Mr President, the second Resolution is that pursuant to section 22A of the LAO, LegCo may, by resolution, amend the rate of maintenance payments that is exempted from the DLA's first charge under section 18A(5), as well as the amount by which the money retained by DLA may be reduced in cases of serious hardship under section 19B(1)(a).

10. If a legally aided person is successful in recovering or preserving any money or property in the legally aided proceedings, DLA has the right to retain under such money or property such sums required for recovering the costs and other expenses incurred by LAD for the legally aided person pursuant to section 18A(1) of the LAO. Such right is called DLA's first charge.

11. According to section 18A(5) of the LAO, DLA's first charge does not apply to the first \$9,370 of each monthly payment of the maintenance payment. Separately, in cases of serious hardship to the legally aided person, DLA may exercise discretion under section 19B(1)(a) of the LAO to reduce the amount to be retained by DLA, provided that the sum to be so retained is in all the circumstances just and equitable.

12. Same as FELs, we propose to adjust the two abovementioned amounts upwards by 1.8%, namely

- (a) the amount specified in section 18A(5) upwards from \$9,370 to \$9,540, and
- (b) the amount specified in section 19B(1)(a) upwards from \$112,120 to

\$114,140.

13. The LegCo Panel on Administration of Justice and Legal Services was informed of the outcome of the review via an information paper in December 2023, and raised no objection to the above proposal.

14. Subject to LegCo's approval of the Resolution, we will implement the proposal upon gazettal of the Resolution.

15. I appeal for Members' support for the above two Resolutions. Thank you, Mr President.

- End -