

立法局主席辦事處
香港皇后大道中八號
立法局



Appendix V

Sir John Swaine, CBE, LLD, QC, JP
Office of the President
Legislative Council
Legislative Council Building,
8 Jackson Road,
Hong Kong.

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16 June 1995

The Hon Simon IP Sik-on, OBE, JP
18th Floor
Prince's Building
10 Chater Road
Central
HONG KONG

Dear Mr Ip,

Re: Legal Aid (Amendment Bill)
Proposed Amendment to Schedule 3

I have considered the points made in your letter dated 13 June 1995 in support of your request that I re-consider my ruling that your proposed amendment will have a charging effect, and have also taken into account the Administration's response to your letter, a copy of which has been supplied to you.


Standing Order 45(6) requires me to form an opinion as to whether an amendment may have a charging effect. The exercise as I see it is a practical one. As you point out, the legislative intent is that the Supplementary Legal Aid Scheme should primarily be self-financing. It is however the case that resort to public financing is not excluded, and is indeed specifically provided for in the exception to the proviso to Section 27 to which you have referred.

The Administration in its letter dated 14 June 1995 responding to your submissions has stated that the reality is that Government money will be expended as "it is impossible for the Director of Legal Aid to raise loans from the private market".

Further, I do not think it would be appropriate for me to dictate, in effect, to the Administration how the scheme should be run, whether by way of prioritizing applications or by other means, provided of course I am satisfied that the refusal of the Administration to take measures which would obviate recourse to public funds is not so unreasonable as to fall within the established principles for setting aside the exercise of an administrative discretion. I am not able to say that with regard to the Administration's response in this case.

I have therefore not been persuaded that my original ruling should be reversed.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'John Swaine', written over a horizontal line. The signature is stylized and somewhat illegible.

John Swaine
President