

LC: Speech by CS for proposed resolutions moved under Legal Aid Ordinance

Following is the speech (translated from Chinese) made by the Chief Secretary for Administration, Mr Chan Kwok-ki, for the proposed resolutions moved under the Legal Aid Ordinance in the Legislative Council today (January 31):

Mr 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 (Cap. 91) Regarding the FELs

I introduce the first Resolution.

Pursuant to section 7(a) of the Legal Aid Ordinance (Cap. 91) (LAO), the Legislative Council (LegCo) may by resolution amend the FELs specified in sections 5 and 5A of the LAO.

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. The FELs have been set respectively under the means tests of the Ordinary Legal Aid Scheme (OLAS) and Supplementary Legal Aid Scheme (SLAS).

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

According to the latest round of annual review of the FELs, for the reference period from July 2022 to July 2023, the CPI(C) has increased by 1.8 per cent. We propose to adjust the FELs upwards by 1.8 per cent, namely:

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

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 did not raise any objection to the proposal.

Subject to the 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 the DLA's First Charge

Mr President, the second Resolution is that pursuant to section 22A of the LAO, the 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 the DLA may be reduced in cases of serious hardship under section 19B(1)(a).

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

According to section 18A(5) of the LAO, the 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, the DLA may exercise discretion under section 19B(1)(a) of the LAO to reduce the amount to be retained by the DLA, provided that the sum to be so retained is in all the circumstances just and equitable.

Same as the FELs, we propose to adjust the two abovementioned amounts upwards by 1.8 per cent, 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.

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. It did not raise any objection to the above proposal.

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

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