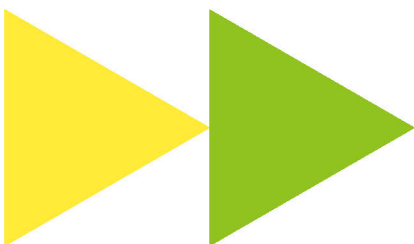


Review of Criminal Legal Aid Fees



Lawyers in private practice engaged to undertake litigation work on behalf of Legal Aid Department (“LAD”) in respect of criminal cases are remunerated in accordance with the Legal Aid in Criminal Cases Rules (LACCR) under the Criminal Procedure Ordinance (Cap. 221), which specifies the fees payable to counsel and solicitors for criminal cases in different levels of Court. The Department of Justice (“DoJ”) draws reference to the same scale of fees to engage counsel in private practice to appear for the prosecution in criminal cases. The duty lawyer fees are also determined with reference to the same scale of fees.

Pursuant to the report by the Secretary for the Treasury to the Legislative Council (“LegCo”) Finance Committee in October 1992, the criminal legal aid fees, the prosecution fees and the duty lawyer fees (collectively referred to as “the Fees”) are subject to review on a biennial basis to take into account changes in the Consumer Price Index (C) (“CPI(C)”) during the reference period. In conducting the biennial reviews, the Government takes into account mainly general price movement during the reference period and whether there has been difficulty in engaging the services of counsel and solicitors.

As reported last year, in the biennial review of 2014, the Government proposed to increase the Fees by 7.7% in accordance with the movement in CPI(C) during the reference period from July 2012 to July 2014. The proposed 7.7% upward adjustment was incorporated in the proposed package of increases in criminal legal aid fees pursuant to the review commenced in March 2014. The Government sought the support of the LegCo Panel on Administration

of Justice and Legal Services in February 2016 and the proposed package of increases in criminal legal aid fees was approved by LegCo in June 2016. The new Fees came into effect on 14 November 2016.

In December 2016, the Council was informed that the Government had completed the 2016 biennial review. Noting that the CPI(C) for the reference period (i.e. July 2014 to July 2016) had increased by 4.0%, the

Government proposed to adjust the Fees upward by 4.0% accordingly. The impact of general price movement after July 2016 would be reflected in the next biennial review.

The following table summarises the adjustment to the Fees in the past three biennial reviews and the adjustment proposed for the current review –

Year	Adjustment	CPI(C) Movement
2010 review	+1.6%	+1.6%
2012 review	+9.3%	+9.3%
2014 review	+7.7%	+7.7%
2016 review	+4.0% (proposed)	+4.0%

It was noted that the proposed amendments to the LACCR had been submitted to the Criminal Procedure Rules Committee (“Rules Committee”) chaired by the Chief Judge of the High Court for approval. Subject to the Rules Committee’s approval, the Government will move a resolution in LegCo to effect the

legislative changes and will appoint the commencement date as soon as possible upon LegCo’s approval.

The Council welcomed the proposed upward adjustment and is looking forward to the commencement of the revised criminal legal aid fees payable to counsel and solicitors.