

檢討法律援助申請人的 財務資格限額

Review of Financial Eligibility Limits of Legal Aid Applicants



任何人擁有的財務資源只要不超過財務資格限額，在經濟上便符合申請法律援助的資格。「財務資源」是指將申請人每月可動用收入乘以12，再與其可動用資產相加後所得的總和。可動用收入是指申請人的總收入在減去《法律援助（評定資源及分擔費用）規例》（第91B章）（《規例》）所規定可扣除項目後的餘額。除非《規例》訂明在計算可動用資產時應剔除某些項目，否則申請人的可動用資產須包括一切屬資本性質的資產，例如申請人的貸方結餘總和、其他人須付予該申請人的款項、該申請人名下非金錢資源權益的價值、其業務或在公司的業務中所佔份額的價值等。

檢討

根據在1999年9月就《1999年法律援助（修訂）條例草案》向立法會提交的報告，政府會每年檢討一次普通法律援助計劃（「普通計劃」）和法律援助輔助計劃（「輔助計劃」）的財務資格限額以計及一般物價變動的情況，而兩年一度進行的檢討則會計及訟費變動及其他相關的因素。

在最新一次的財務資格限額周年檢討工作中，民政事務局（「民政局」）參照

A person is financially eligible for legal aid if his financial resources do not exceed the financial eligibility limit (FEL). "Financial resources" means the aggregate of that person's monthly disposable income multiplied by 12 and disposable capital. A person's disposable income is his gross income minus deductible items as allowed under the Legal Aid (Assessment of Resources and Contributions) Regulations, Cap. 91B ("the Regulations"). His disposable capital consists of all assets of a capital nature, such as the sum of his credit balance, money due to him, the value of his interest in non-money resources, the value of business or share in a company etc., unless such items should be excluded from calculation under the Regulations.

The Review

Pursuant to the Government's report to the Legislative Council (LegCo) on the Legal Aid (Amendment) Bill 1999 in September 1999, the FELs under the Ordinary Legal Aid Scheme (OLAS) and Supplementary Legal Aid Scheme (SLAS) are reviewed annually to take into account general price movement and biennially to take into account changes in litigation costs and other relevant factors.

In the latest annual review of FELs, the Home Affairs Bureau (HAB) proposed to adjust the FELs upward by 4% in accordance with the increase in Consumer Price Index (C) (CPI(C)) for the

2014年7月至2016年7月期間丙類消費物價指數的上升幅度，建議把財務資格限額相應調高4.0%。至於2016年7月後一般物價變動所帶來的影響，則會在下一輪檢討中反映。調整前後的財務資格限額載列如下：

period from July 2014 to July 2016. The impact of general price movement after July 2016 will be reflected in the next review. The FELs before and after the adjustment are shown below –

	調整前的財務資格限額 FELs before Adjustment	調整後的財務資格限額 FELs after Adjustment
普通計劃下的法律援助 Legal aid under OLAS	\$290,380	\$302,000
刑事法律援助 Criminal legal aid	\$290,380	\$302,000
輔助計劃下的法律援助 Legal aid under SLAS	\$1,451,900	\$1,509,980

至於兩年一度的檢討，民政局曾要求兩個法律專業團體提供協助，但有關團體均表示並無有關私人訟費的資料。因此，自2000年推出兩年一度檢討該限額的安排以來，政府從未以訟費變動為基礎對財務資格限額作出調整。

As for the biennial review, HAB sought assistance from the two legal professional bodies but were advised that no information on private litigation costs was available. Therefore, it has not been able to make any adjustment to the FELs on the basis of changes in litigation costs since the introduction of the biennial review in 2000.

建議的實施情況

民政局於2017年6月向法援局通報有關財務資格限額的檢討結果，並依照《法律援助條例》第7條的規定，向立法會提交調整財務資格限額的決議案。新的財務資格限額於2018年2月9日起生效。

Implementation of Proposal

In June 2017, HAB informed the LASC of the FELs review outcome. In accordance with section 7 of the Legal Aid Ordinance, HAB moved a resolution in LegCo to adjust the FELs. The new FELs came into effect from 9 February 2018.

本局歡迎有關決定。

The Council welcomes the increase.