

FREE OR SUBSIDISED LEGAL ASSISTANCE COMMONLY AVAILABLE IN HONG KONG I. FREE OR SUBSIDISED LEGAL ASSISTANCE COMMONLY AVAILABLE IN HONG KONG Schemes providing legal representation in court proceedings: Schemes providing legal advice or assistance (but no legal representation in court proceedings): This gives you some general information about the legal services provided by the Legal Aid Department, Duty Lawyer Service, Hong Kong Bar Association and the Judiciary. LEGAL ASSISTANCE ELIGIBILITY CALCULATOR II. LEGAL ASSISTANCE ELIGIBILITY CALCULATOR This calculator gives you a preliminary indication of whether or not you can get free or subsidised legal assistance. Launch Calculator CASE ILLUSTRATION This gives you an illustration of the more important aspects of the Legal Aid Schemes and the Duty Lawyer Scheme. III. CASE ILLUSTRATION A. LEGAL AID SCHEME FOR CRIMINAL CASES RUN BY THE LEGAL AID DEPARTMENT A. LEGAL AID SCHEME FOR CRIMINAL CASES RUN BY THE LEGAL AID DEPARTMENT The Legal Aid Department will assign qualified solicitors or barristers in private practice to provide legal representation in criminal cases to eligible defendants in Hong Kong (whether the person is a Hong Kong resident or non-resident) (1) for all cases tried in the District Court or the High Court; (2) for appeals against conviction or sentence passed by a Magistrate or a judge of the District Court or High Court (including further appeals to the Court of Final Appeal); and (3) for committal proceedings in the Magistrates Courts. Legal aid is not available in Magistrates Courts (except for committal proceedings). If you are charged with an offence in Magistrates Courts, you should seek legal representation from the Duty Lawyer Scheme. For more details about the Legal Aid Scheme for criminal cases, please visit the Legal Aid Department's webpage or telephone 2537 7677 (24-hour interactive voice processing system) or 2537 7661 (Headquarters). B. LEGAL AID SCHEMES FOR CIVIL CASES RUN BY THE LEGAL AID DEPARTMENT B. LEGAL AID SCHEMES FOR CIVIL CASES RUN BY THE LEGAL AID DEPARTMENT In civil proceedings the Legal Aid Department provides eligible applicants with representation by a solicitor, and where necessary, by a barrister. Legal Aid is available to any person in Hong Kong, whether the person is a Hong Kong resident or non-resident. Legal Aid will normally be granted if the applicant is able to satisfy the financial means test and the case merits test. There are two Legal Aid Schemes for civil cases: the Ordinary Legal Aid Scheme and the Supplementary Legal Aid Scheme. The Ordinary Legal Aid Scheme is for people with financial resources not exceeding \$420,400. The Ordinary Scheme covers most types of civil proceedings in the District Court, the Court of First Instance, & the Court of Appeal of the High Court, the Court of Final Appeal, the Lands Tribunal for Part II tenancy matters, certain coroners inquests, as well as application to the Mental Health Review Tribunal. The Ordinary Scheme does not however cover (1) defamation claims (2) claims in Small Claims Tribunal and Labour Tribunal (3) disputes between shareholders or business partners, (4) claims for the recovery of a loan made in the ordinary course of the applicant's business, (5) proceedings where the only question is about when and how an applicant should repay certain debt or costs, (6) money claims in derivatives of securities, currency futures or other futures contracts, (7) relator actions and (8) election petitions (unless a human right issue is involved). The Supplementary Legal Aid Scheme is for "sandwich class" with financial resources ranging from \$420,400.01 to \$2,102,000. However, the Supplementary Scheme only cover (1) cases involving personal injury or death, (2) medical, dental or legal professional negligence, where the claim for damages is likely to exceed \$75,000; (3) claims under the Employees' Compensation Ordinance; (4) professional negligence claims against certified public accountants (practising), registered architects, registered professional engineers, registered professional surveyors, registered professional planners, authorized land surveyors, registered landscape architects and estate agents, where the claim for damages is likely to exceed \$75,000; (5) negligence claims against insurers or their intermediaries in respect of the taking out of the personal insurance products, where the claim for damages is likely to exceed \$75,000; (6) monetary claims against vendors in the sale of completed or uncompleted first-hand residential properties, where the claim for damages is likely to exceed \$75,000; and (7) representation for employees in appeals against awards made by the Labour Tribunal. For more details about the Legal Aid Scheme for civil cases, please visit the Legal Aid Department's webpage or telephone 2537 7677

(24-hour interactive voice processing system) or 2537 7661 (Headquarters).

**C. DUTY LAWYER SCHEME RUN BY THE DUTY LAWYER SERVICE**

**C. DUTY LAWYER SCHEME RUN BY THE DUTY LAWYER SERVICE** Main Services: The Duty Lawyer Scheme provides legal representation in criminal cases to eligible defendants appearing in Magistrates Courts and Juvenile Courts. The legal representation is provided by qualified solicitors and barristers in private practice. It includes advising the defendant whether he should plead guilty to the charge, making a plea in mitigation on his behalf if he pleads guilty, conducting the defence at trial if he pleads not guilty, and making a plea in mitigation if he is convicted after trial. Other Services: The Duty Lawyer Scheme also provides legal representation to (1) eligible persons who are at risk of criminal prosecution as a result of giving incriminating evidence in Coroners Inquest; (2) hawkers appealing to the Municipal Services Appeals Board against the decision of not issuing hawker licence to them; and (3) eligible persons facing extradition proceedings. For more details about the Duty Lawyer Scheme, please visit the Duty Lawyer Service's webpage or telephone 2526 5969.

**D. THE BAR FREE LEGAL SERVICE SCHEME RUN BY THE HONG KONG BAR ASSOCIATION**

**D. THE BAR FREE LEGAL SERVICE SCHEME RUN BY THE HONG KONG BAR ASSOCIATION** The Bar Free Legal Service Scheme aims to provide free legal advice and representation in court proceedings (1) where Legal Aid is not available; (2) where the applicant cannot reasonably afford private legal services; and (3) the applicant has reasonable grounds for taking or defending the proceedings. The free legal advice or representation is given by a barrister in private practice from a panel of barristers who have volunteered to participate in the Scheme. The panel comprises barristers with a range of experience and specialisations. Each of them has offered his services free of charge for 3 days or 20 hours each year. The volunteer barrister may (1) give advice either in writing or orally in conference on a legal problem; or (2) represent the applicant in court or tribunal hearing. The Scheme is not publicly funded. Given its limited resources, the Scheme will not be able to provide a barrister to advise on a continuing basis over a long period or to provide assistance in lengthy court hearings. The Scheme is also restricted in its funds to retain outside help, for example expert witnesses. The principal expertise of a barrister is in representing clients at hearings in courts and tribunals; and giving specialist legal advice. Barristers do not have the resources to carry out factual enquiries or to deal with correspondence or court procedures on a client's behalf. When services of solicitors are required, the Scheme will try to obtain assistance from solicitors who agree to help on a voluntary basis. For more details about the Bar Free Legal Service Scheme, please visit the Hong Kong Bar Association's webpage or telephone 2137 9107.

**E. FREE LEGAL ADVICE SCHEME RUN BY THE DUTY LAWYER SERVICE**

**E. FREE LEGAL ADVICE SCHEME RUN BY THE DUTY LAWYER SERVICE** The Free Legal Advice Scheme provides free preliminary legal advice to members of the public regarding their legal position in genuine cases. The objective of the Scheme is to enable members of the public having genuine legal problems to have preliminary advice regarding their legal position. The Scheme will not offer legal representation to the clients. There is no means test (assessment of your financial status) and the service is absolutely free of charge. All the lawyers giving advice to members of the public through the Free Legal Advice Scheme are qualified solicitors or barristers who join the Scheme on a volunteer basis. In general, the volunteer lawyer on duty will give one-off oral legal advice to help the client understand the nature of his problem, his rights and obligations under the law, and the channels available for resolution. The advice session usually lasts for about 20 to 30 minutes. Advice given is of a general and preliminary nature. The volunteer lawyer cannot be expected to embark on a full analysis of the merits of a complicated case or to provide in-depth advice. For more details about the Free Legal Advice Scheme, please visit the Duty Lawyer Service's webpage or telephone 2526 5969.

**F. TEL-LAW SCHEME RUN BY THE DUTY LAWYER SERVICE**

**F. TEL-LAW SCHEME RUN BY THE DUTY LAWYER SERVICE** Tel-Law Scheme run by the Duty Lawyer Service The Tel-Law Scheme provides members of the public with free taped legal information by telephone. It is a 24-hour automatic answering service which provides tapes on more than 70 topics in Cantonese, Putonghua and English. This Scheme does not provide any legal advice upon which one should act, but provides only a brief introduction on the particular legal topic. The topics are divided into 8 groups,

namely, (1) Family Law, (2) Land Law and Tenancy Law, (3) Criminal Law, (4) Employment Law, (5) Commercial, Banking and Sales of Goods, (6) Administrative and Constitutional Law, (7) Environmental Law and Tort, and (8) General Legal Information. To listen to the tapes, you may dial either 2521 3333 or 2522 8018 and follow the instructions to select the required tape. You may also listen to the tapes or read the scripts of the tapes via the internet at the Duty Lawyer Service's website.

**G. RESOURCE CENTRE FOR UNREPRESENTED LITIGANTS RUN BY THE JUDICIARY**

The Resource Centre for Unrepresented Litigants provides assistance to unrepresented litigants who are parties to, or are about to commence, civil proceedings in the High Court or the District Court. The assistance provided at the Resource Centre is confined to procedural matters only. To maintain judicial impartiality, the staff will not give legal advice or make any comments on the merits of the case. The Centre also provides the following services and facilities: Oaths and declaration services to the unrepresented litigants who need to file affidavits in preparing their cases; Guidance on filling in court forms and submission of court bundles; Computer terminals with access to the Judiciary website, interlinked with the websites of the Legal Aid Department and of other agencies offering free legal advice; Database of frequently asked questions raised by unrepresented litigants; Brochures introducing a broad outline of civil proceedings in the High Court and the District Court; Sample court forms; Videos on court procedures; Daily cause lists of the High Court and the District Court; Writing area and self-service photo-copying machines. Proceedings relating to matrimonial, lands, employees' compensation and probate matters are not covered by the Resource Centre. These matters involve specialized rules and procedures. Procedural assistance on these matters can be obtained from the staff of the relevant Court Registries. The Resource Centre is situated at Room LG105, Lower Ground Floor 1, High Court Building, 38 Queensway, Hong Kong. For more details about the Resource Centre, please visit the Judiciary's webpage or telephone 2825 0586.

**H. LEGAL ADVICE SCHEME FOR UNREPRESENTED LITIGANTS ON CIVIL PROCEDURES (PROCEDURAL ADVICE SCHEME) RUN BY THE ADMINISTRATION WING OF THE CHIEF SECRETARY FOR ADMINISTRATION'S OFFICE**

**LEGAL ADVICE SCHEME FOR UNREPRESENTED LITIGANTS ON CIVIL PROCEDURES (PROCEDURAL ADVICE SCHEME) RUN BY THE ADMINISTRATION WING OF THE CHIEF SECRETARY FOR ADMINISTRATION'S OFFICE**

The Administration Wing of the Chief Secretary for Administration's Office has launched a scheme to provide free legal advice on civil procedures for litigants in person who are involved in legal proceedings in the District Court or higher courts and have not been granted legal aid. For more details, please click [here](#).

**1. IS THERE ANY FINANCIAL SCREENING (FINANCIAL MEANS TEST) BEFORE I CAN OBTAIN LEGAL AID FOR CRIMINAL CASES?**

**1. IS THERE ANY FINANCIAL SCREENING (FINANCIAL MEANS TEST) BEFORE I CAN OBTAIN LEGAL AID FOR CRIMINAL CASES?** Yes. To qualify for Legal Aid, the applicant needs to go through a financial means test. The means test is to determine whether the applicant's assets and income exceed the financial resources limit for Legal Aid. To satisfy the means test, the financial resources of the applicant should not exceed HK\$420,400. Legal Aid will normally not be granted if the applicant's financial resources exceeded the limit. However, the Director of Legal Aid has the discretion to grant legal aid where it is in the interest of justice to do so, even if the applicant's financial resources exceed the limit. It may depend on how serious the offence is and whether the applicant can reasonably be expected to be able to afford the legal costs for private legal representation without Legal Aid. For further details, please see the questions and answers below.

**How are financial resources calculated? What is disposable capital? What is disposable income? Have my financial resources exceeded the limit for Legal Aid?**

**2. IS THERE ANY CASE MERITS SCREENING (CASE MERITS TEST) BEFORE I CAN OBTAIN LEGAL AID FOR CRIMINAL CASES?**

**2. IS THERE ANY CASE MERITS SCREENING (CASE MERITS TEST) BEFORE I CAN OBTAIN LEGAL AID FOR CRIMINAL CASES?** In general, there will be no case merits test on your case if you are facing a criminal charge. However, you need to go through the case merits test if you want to appeal against conviction or sentence. Under the regulations, subject to the financial means test, legal aid will be granted if the Director of Legal Aid is satisfied that it is desirable in the interests of justice to do so. Everyone is presumed innocent until he is proved guilty and so the interests of justice generally

require legal representation be given to an accused person who cannot afford the legal costs for hiring private lawyers for dealing with a criminal charge. Legal aid will therefore generally be granted to an accused person for dealing with a criminal charge so long as he can satisfy the financial means test. In other words, there is no case merits screening for committal proceedings or for trials in the District Court or High Court. But if an applicant has been convicted and wants to obtain legal aid for appeal, the Director of Legal Aid must further be satisfied that the applicant has meritorious grounds of appeal. In other words, for appeal cases, the applicant must satisfy both the means test and the merits test.

3. CAN I OBTAIN LEGAL AID IF I WANT TO PLEAD GUILTY TO THE CHARGE? 3. CAN I OBTAIN LEGAL AID IF I WANT TO PLEAD GUILTY TO THE CHARGE? Yes, so long as you can satisfy the financial means test. It is generally desirable for you to have legal representation even if you intend to plead guilty to the criminal charge. First, you may obtain legal advice from the lawyer assigned by Legal Aid before you finally decide whether you should plead guilty. Second, if you decide to plead guilty, the assigned lawyer can represent you in Court to make a plea in mitigation on your behalf.

4. DO I NEED TO PAY ANYTHING FOR LEGAL AID SERVICE FOR CRIMINAL CASES? 4. DO I NEED TO PAY ANYTHING FOR LEGAL AID SERVICE FOR CRIMINAL CASES? It depends on the amount of your financial resources assessed by the Director of Legal Aid. If your financial resources assessed by the Director of Legal Aid do not exceed \$52,550, you do not need to pay any fee for obtaining Legal Aid. The financial resources of an applicant who is receiving Comprehensive Social Security Assistance will normally be considered as NOT exceeding \$52,550 (unless there is any evidence to the contrary). If your financial resources assessed by the Director of Legal Aid are between \$52,550.01 and \$420,400, you will have to pay a contribution ranging from \$1,051 to \$105,100 upon acceptance of Legal Aid. If your financial resources assessed by the Director of Legal Aid exceed \$420,400, normally you will be refused Legal Aid. But if the Director of Legal Aid exercises his discretion to grant Legal Aid even though your financial resources exceed the statutory limit of \$420,400, the contribution that you have to pay will range from 30% to 67% of your assessed financial resources. Please click [here](#) to see the scale of contribution.

5. CAN I CHOOSE A LAWYER I TRUST TO REPRESENT ME UNDER LEGAL AID? 5. CAN I CHOOSE A LAWYER I TRUST TO REPRESENT ME UNDER LEGAL AID? You may request the Director of Legal Aid to assign a solicitor or barrister in private practice whom you trust to represent you when you apply for Legal Aid. If your suggested lawyer is on the Legal Aid Panel and has the time and expertise to represent you in the proceedings, the Director of Legal Aid will usually respect your choice. If the Director considers the lawyer suggested by you to be unsuitable, his staff will discuss with you to find another suitable lawyer.

6. WHAT SHOULD I DO IF I WANT TO OBTAIN LEGAL AID? 6. WHAT SHOULD I DO IF I WANT TO OBTAIN LEGAL AID? You should go to the Legal Aid Department's Headquarters at 25/F, Queensway Government Offices, 66 Queensway, Hong Kong (near Admiralty MTR Station) to make the application. You should bring along all documents related to your financial situation (for example, your bank passbooks and monthly statements, salary slips, rent receipts, mortgage repayment schedule, Tax Assessment, documentary proof of Comprehensive Social Security Assistance etc). You should also bring along all documents related to your case. For enquiries, you may telephone 2537 7677 (24-hour Interactive Voice Processing System) or 2537 7661 (Headquarters) or email [ladinfo@lad.gov.hk](mailto:ladinfo@lad.gov.hk). If you are remanded in custody, you may apply through the Correctional Services Department. You can tell the prison staff that you want to apply for Legal Aid, and they will help you fill in the application form and forward it to the Legal Aid Department. Upon receipt of your application form, in most cases, an officer of the Legal Aid Department will visit you in prison to discuss the case with you. You do not have to pay any application fee.

7. HOW LONG DO I HAVE TO WAIT FOR THE RESULT OF MY APPLICATION? 7. HOW LONG DO I HAVE TO WAIT FOR THE RESULT OF MY APPLICATION? In normal circumstances, you will be informed whether or not you will be granted Legal Aid within the period set out below: For committal proceedings in Magistrates Courts: within 8 working days from your application. For trial cases in the District Court or the Court of First Instance of High Court: within 10 working days from your application. For appeal against sentence: within 2 months from your application. For appeal against conviction: within three

months from your application. If a decision cannot be made within the above period, the staff of the Legal Aid Department will explain to you the situation and tell you when a decision will likely be made. If there is a real urgency, you may request the staff of the Legal Aid Department to process your application on an urgent basis.

8. WHAT CAN I DO IF MY APPLICATION FOR CRIMINAL LEGAL AID IS REJECTED? 8. WHAT CAN I DO IF MY APPLICATION FOR CRIMINAL LEGAL AID IS REJECTED? You should first check the reasons for the refusal and see if there may be any errors or mistakes on the information that you had given to the Legal Aid Officer during your application. If so, you may liaise with the staff of the Legal Aid Department to explain further your situation and ask them to re-consider your application. If your assessed financial resources do not exceed \$420,400 but you are refused Legal Aid on merits, you can apply to the judge hearing your case to grant you Legal Aid. If you are charged with murder, treason or piracy with violence, you can apply to the judge to grant you Legal Aid or for exemption from payment of contribution, even if you cannot pass the financial means test. Apart from the above-mentioned channel to obtain Legal Aid directly from the judge, there is unfortunately no right of appeal against a refusal to grant Legal Aid in criminal cases. The only exception is that if you are refused Legal Aid for lodging an appeal to the Court of Final Appeal, you may appeal against the refusal to a Committee of Review. If you are not granted Legal Aid but you cannot afford to employ any private lawyer to represent you in the proceedings, you may try to seek help from the Bar Free Legal Service Scheme provided by the Hong Kong Bar Association.

1. WHAT IS THE FINANCIAL MEANS TEST? 1. WHAT IS THE FINANCIAL MEANS TEST? To qualify for Legal Aid, the applicant needs to go through a financial means test. The means test is to determine whether the applicant's assets and income exceed the financial resources limit for Legal Aid. To satisfy the means test under the Ordinary Legal Aid Scheme, the financial resources of the applicant cannot exceed \$420,400. The Director of Legal Aid has no power to grant Legal Aid under the Ordinary Scheme if the financial resources of the applicant exceed \$420,400. The only exception is that the Director of Legal Aid may waive the financial resources limit in human rights related litigation. If the financial resources of the applicant are between \$420,400.01 and \$2,102,000, he can satisfy the means test under the Supplementary Legal Aid Scheme. The Director of Legal Aid has no power to grant Legal Aid under the Supplementary Scheme if the financial resources of the applicant exceed \$2,102,000. For further details, please see the questions and answers below. How are financial resources calculated? What is disposable capital? What is disposable income? Have my financial resources exceeded the limit for Legal Aid?

2. THE CASE MERITS TEST FOR CIVIL LEGAL AID 2. THE CASE MERITS TEST FOR CIVIL LEGAL AID To qualify for Legal Aid, the applicant needs to go through the case merits test. The Director of Legal Aid needs to be satisfied that the applicant has reasonable grounds for taking or defending the proceedings. To this end, the applicant must provide all the information relevant to his case. In the course of assessing the merits of an application, the Director of Legal Aid may obtain information from other sources, including the opposite parties in the case. For example, it may be necessary for him to obtain a transcript of the court proceedings or records of decisions or medical records. Apart from the legal merits of the applicant's case, the Director of Legal Aid must also be satisfied that it is reasonable that the applicant should be granted Legal Aid. For example, Legal Aid may be refused if the opposite party has no valuable assets or cannot be located, so that any judgment obtained cannot be enforced in practice. Legal Aid may also be refused if no reasonable person will pay out of his pocket to retain a lawyer to deal with the case due to its nature or the fact that only a trivial advantage would be gained from it. There are, however, cases where the benefits to be obtained cannot be measured in purely monetary terms. When dealing with such cases, apart from objectively and carefully assessing whether the likely benefit will be sufficient to cover the costs that may be incurred in the proceedings, the Director of Legal Aid will also take into account the importance of the case to the applicant in deciding whether to grant Legal Aid.

3. DO I NEED TO PAY ANYTHING FOR LEGAL AID SERVICE FOR CIVIL CASES? 3. DO I NEED TO PAY ANYTHING FOR LEGAL AID SERVICE FOR CIVIL CASES? You are required to pay a sum by way of contribution if your financial resources have exceeded \$38,391.25. Details of the

contribution are as follows: Contribution required under the Ordinary Legal Aid Scheme (for financial resources not exceeding \$420,400) Contribution required under the Supplementary Legal Aid Scheme (for financial resources exceed \$420,400 but not \$2,102,000)

4. DO I NEED TO PAY MY OPPONENT'S LEGAL COSTS IF I LOSE IN THE PROCEEDINGS? 4. DO I NEED TO PAY MY OPPONENT'S LEGAL COSTS IF I LOSE IN THE PROCEEDINGS? In general, you need not be personally liable for the legal costs of the other party incurred after the grant of the Legal Aid. If the plaintiff in the proceedings has been granted Legal Aid but loses his case, the court will normally order that the legal costs of the successful defendant (incurred after the grant of the Legal Aid to the plaintiff) be paid by the Director of Legal Aid. If the defendant has been granted Legal Aid but loses his case, neither the defendant nor the Director of Legal Aid shall generally be liable for any costs of the successful plaintiff. However if you obtain Legal Aid in the middle of the proceedings, you may be personally liable for the legal costs of the successful opponent incurred before the grant of the Legal Aid. It is therefore in your best interests to apply for Legal Aid as soon as possible.

5. CAN I CHOOSE A LAWYER I TRUST TO REPRESENT ME UNDER LEGAL AID? 5. CAN I CHOOSE A LAWYER I TRUST TO REPRESENT ME UNDER LEGAL AID? Unless the Director of Legal Aid has decided to assign the case in-house, you may request him to assign a solicitor or barrister in private practice whom you trust to represent you in the proceedings. If your suggested lawyer is on the Legal Aid Panel and has the time and expertise to represent you in the proceedings, the Director of Legal Aid will usually respect your choice. If the Director considers the lawyer suggested by you to be unsuitable, his staff will discuss with you to find another suitable lawyer.

6. WHAT SHOULD I DO IF I WANT TO OBTAIN LEGAL AID? 6. WHAT SHOULD I DO IF I WANT TO OBTAIN LEGAL AID? You should go to the Legal Aid Department's Headquarters at 24/F, Queensway Government Offices, 66 Queensway, Hong Kong (near Admiralty MTR Station) or to its Kowloon Branch Office at G/F, Mongkok Government offices, 30 Luen Wan Street, Kowloon (adjacent to Mongkok KCR's station) to make the application. For enquiries, you may telephone 2537 7677 (24-hour Interactive Voice Processing System), or 2537 7661 (Headquarters) or 2380 0117 (Kowloon Branch Office) or email [ladinfo@lad.gov.hk](mailto:ladinfo@lad.gov.hk). You will be given an appointment for an interview and a checklist of all the documents that you need to bring along with you to the interview. If the case is urgent, you should tell the staff of the Legal Aid Department that it is urgent when you apply for Legal Aid. On the day of your interview, you should bring along all documents relating to your case and to your financial situation (for example, your bank passbooks and monthly statements, salary slips, rent receipts, mortgage repayment schedule, tax assessment, documentary proof of Comprehensive Social Security Assistance etc). During the interview, you will be asked about your assets and income. You will also be asked to give a statement concerning your case so that the Department can determine its merits. In most cases both the statement taking and the financial means assessment can be done on the same day. In some cases, it may be necessary to obtain additional information from third parties, such as other government departments or public bodies, for the purpose of determining the merits of your case. Once all the information has been collected, the Legal Aid Department lawyer in charge of your case will decide whether Legal Aid should be granted.

7. WHAT CONSEQUENCES WILL I FACE IF I PROVIDE FALSE INFORMATION TO THE LEGAL AID DEPARTMENT? 7. WHAT CONSEQUENCES WILL I FACE IF I PROVIDE FALSE INFORMATION TO THE LEGAL AID DEPARTMENT? If an applicant provides false information or conceals his assets when he applies for Legal Aid, he is liable to prosecution and liable to a maximum fine of \$10,000 and 6 months' imprisonment upon conviction.

8. DO I NEED TO FILE MY DEFENCE IN THE PROCEEDINGS WHILE WAITING FOR THE OUTCOME OF MY LEGAL AID APPLICATION? 8. DO I NEED TO FILE MY DEFENCE IN THE PROCEEDINGS WHILE WAITING FOR THE OUTCOME OF MY LEGAL AID APPLICATION? In general, you do not need to take any step in the proceedings for 42 days pending the outcome of your Legal Aid application. Upon receipt of your Legal Aid application, the Director of Legal Aid will immediately file at court a memorandum of notification. Once this memorandum is filed, the court proceedings will automatically be put on hold for 42 days. No step needs to be taken by either party in the proceedings during this 42-day period (unless the court makes an order shortening the period). The purpose is to give the Director of Legal Aid

sufficient time to process the Legal Aid application and, in case Legal Aid is granted, to allow the responsible Legal Aid officer or lawyer to review the relevant papers and do the necessary preparation.

9. WHAT CAN I DO IF MY APPLICATION FOR CIVIL LEGAL AID IS REJECTED? 9. WHAT CAN I DO IF MY APPLICATION FOR CIVIL LEGAL AID IS REJECTED? You should first check the reasons for the refusal and see if there may be any errors or mistakes on the information that you had given to the Legal Aid Officer during your application. If so, you may liaise with the staff of the Legal Aid Department to explain further your situation and ask them to re-consider your application. If you are not satisfied with the refusal, you have a right to appeal to the Registrar of the High Court. But you must lodge the appeal within 14 days of the refusal. The decision of the Registrar on appeal is generally final. If the application for Legal Aid relates to an appeal to the Court of Final Appeal, your appeal against the refusal will be to a Committee of Review instead of the Registrar. If you are not granted Legal Aid but you cannot afford to employ any private lawyer to represent you in the proceedings, you may try to seek help from the Bar Free Legal Service Scheme provided by the Hong Kong Bar Association.

1. ARE ALL PROCEEDINGS IN MAGISTRATES COURTS COVERED BY THE DUTY LAWYER SCHEME? 1. ARE ALL PROCEEDINGS IN MAGISTRATES COURTS COVERED BY THE DUTY LAWYER SCHEME? No. But the Scheme covers most criminal offences where the defendant may be at risk of imprisonment. The Scheme does not offer representation for: committal proceedings; hawking offences; traffic summonses; and other "regulatory offences" such as departmental summonses issued by the following departments of the HKSAR Government: Environmental Protection Department; Inland Revenue Department; Fire Services Department.

2. IS THERE ANY FINANCIAL SCREENING BEFORE I CAN OBTAIN LEGAL REPRESENTATION FROM THE DUTY LAWYER SCHEME? 2. IS THERE ANY FINANCIAL SCREENING BEFORE I CAN OBTAIN LEGAL REPRESENTATION FROM THE DUTY LAWYER SCHEME? No financial means test is required if (1) it is your first court appearance or (2) you are charged in Juvenile Courts. However, if you wish to have legal representation for subsequent court appearance, you need to go through the means test and fill in a statutory declaration of means. You may be required to produce documents showing your financial status such as: bank book; salary slips; rent receipts; mortgage repayment schedule; salaries tax assessment, etc. In order to pass the means test, your gross annual income should not exceed \$197,040 (i.e. \$16,420 per month). However, if the Administrator of the Duty Lawyer Service is satisfied that it is in the interests of justice to do so, he may grant legal representation even though you cannot pass the means test.

3. DO I NEED TO PAY ANYTHING FOR THE SERVICE UNDER THE DUTY LAWYER SCHEME? 3. DO I NEED TO PAY ANYTHING FOR THE SERVICE UNDER THE DUTY LAWYER SCHEME? You do not need to pay any fee for the first court hearing of your case. For the subsequent court hearing(s) of your case, after you have successfully passed the means test, you need to pay a fixed handling charge of \$540. This is the only charge you have to pay, no matter how long the trial lasts. The Administrator of the Duty Lawyer Service has the discretion to waive the handling charge in cases of genuine hardship. Defendants receiving public assistance (e.g. Comprehensive Social Security Assistance) are normally exempted from payment of the handling charge.

4. WHAT SHOULD I DO IF I WANT TO OBTAIN LEGAL REPRESENTATION FROM THE DUTY LAWYER SCHEME? 4. WHAT SHOULD I DO IF I WANT TO OBTAIN LEGAL REPRESENTATION FROM THE DUTY LAWYER SCHEME? You should attend the Duty Lawyer Service's Court Liaison Office in the Magistrates Court where you will appear. If you are held in custody, you will be contacted automatically by the staff of the Court Liaison Office at the cell of the Magistrates Court on the day of your first court appearance. The Duty Lawyer Service has its Court Liaison Office in each and every Magistrates Court in Hong Kong. For enquiries, you may also contact the Administration Office of the Duty Lawyer Service at 23/F, Asia Orient Tower, Town Place, 33 Lockhart Road, Wanchai, Hong Kong (Tel.: 2526 5969; Fax: 2868 1754; email: [hq@dutylawyer.org.hk](mailto:hq@dutylawyer.org.hk)).

1. WHAT SHOULD I DO IF I WANT TO OBTAIN LEGAL ADVICE OR REPRESENTATION UNDER THE BAR FREE LEGAL SERVICE SCHEME? 1. WHAT SHOULD I DO IF I WANT TO OBTAIN LEGAL ADVICE OR REPRESENTATION UNDER THE BAR FREE LEGAL SERVICE SCHEME? Step 1: You must first complete the Scheme's application form. If you cannot obtain Legal Aid because you have exceeded its financial eligibility limit, you must provide, in your application, a brief explanation of your financial resources (income/savings/expenditure) and those of your

family or others from whom you might reasonably be expected to look for help. If you have applied for Legal Aid and have been refused, either on the grounds of financial ineligibility or on the merits, you must provide information about the Director of Legal Aid's decision and also any appeal against that decision. If the Scheme takes the view that the refusal of Legal Aid may be wrong, it may provide assistance or legal representation to help you challenge the refusal. Step 2: You should then submit the completed application form together with one copy of all relevant documents to the Bar Free Legal Service Scheme of the Hong Kong Bar Association at LG2 High Court, 38 Queensway, Hong Kong. You should ensure that you have provided sufficient information and documents for your case to be considered properly. Normally, you should include a copy set of all the contractual documents and court documents in the proceedings (such as pleadings, witness statements, judgments or decisions) as well as advice or correspondence previously received from barristers and/or solicitors. If a case is urgent, for example because of approaching deadlines or hearing dates, this should be highlighted in the application. The Scheme will not normally be able to provide representation without at least 28 days advance notice of any Court hearing. If assistance is needed within a shorter period, the applicant must explain why the application is not made earlier. However there is no guarantee that the Scheme can respond to an urgent request. For enquiries, you may telephone 2869 0210 or email [bflss@hkba.org](mailto:bflss@hkba.org).

1. WHAT SHOULD I DO IF I WANT TO OBTAIN FREE PRELIMINARY LEGAL ADVICE FROM THE SCHEME? 1. WHAT SHOULD I DO IF I WANT TO OBTAIN FREE PRELIMINARY LEGAL ADVICE FROM THE SCHEME? Step 1: You should first attend any of the District Offices (or other referral agencies) to make an appointment to meet the volunteer lawyer. In general, you should be able to meet a volunteer lawyer within two weeks of making an appointment. In emergencies an urgent appointment to see a lawyer may be arranged. At the time of making the appointment, the staff of the District Office will take down the detailed background of your case. You will be asked to choose one of the Advice Centres at which you want to meet the volunteer lawyer for the advice session. An appointment card containing details of the date & time of the appointment and address of the Advice Centre will then be given to you. The case paper will then be sent to the Duty Lawyer Service where the case will be vetted and processed. Suitable cases will be sent to volunteer lawyers for preparation to give advice on the day of appointment. All the details of the cases are treated with strict confidence. No appointment will be arranged for clients who refuse to disclose details of their cases at the time they make the appointment. Step 2: You should then punctually go to the Advice Centre of your choice on the appointment date to meet the volunteer lawyer. You must bring with you the appointment card and all the documents relevant to your case. 2. WILL I BE DENIED LEGAL SERVICE UNDER THE FREE LEGAL ADVICE SCHEME 2. WILL I BE DENIED LEGAL SERVICE UNDER THE FREE LEGAL ADVICE SCHEME Your request for free legal advice may be refused in limited circumstances. The Free Legal Advice Scheme aims to serve those members of the public who have genuine legal problems and who would not normally be able to afford fees for private legal advice. Therefore, the Duty Lawyer Service has issued guidelines under which free legal services will be refused in the following situations: Cases involving legal issues other than Hong Kong Law (for example the question posed involves PRC laws); Cases involving building management, incorporated owners; and deeds of mutual covenant. Legal advice however will be given to individuals who are tenants/owners of a building and who come to seek advice in their individual capacity as owner/occupier/tenant of a building but not to incorporated owners or members seeking advice on behalf of incorporated owners; Cases not involving a legal problem (for example how to apply for public housing, how to apply for a passport in another country); Clients who have been granted Legal Aid; Clients who have already engaged private lawyers to deal with their cases; Clients who wish to set up a business and request the volunteer lawyer to draft a contract for their future use; Clients who are officers and/or representatives of a company incorporated or registered under the Companies Ordinance (Cap. 32 of the Laws of HKSAR) who seek advice on behalf of the company; Clients who are officers and/or representatives of a corporation who seek advice on behalf of the corporation; Clients repeatedly seeking advice from the Service concerning the same case and/or the same issues. A. CIVIL CASE ILLUSTRATION Through the



story of Mr. Zhang, we shall give you an illustration of the more important aspects of the Legal Aid Schemes for civil proceedings. A. CIVIL CASE ILLUSTRATION A Government car hit Mr. Zhang, the Hong Kong branch manager of a mainland company, when he was crossing Nathan Road. He suffered serious injuries. The driver of the Government car was charged with careless driving and was convicted. Mr. Zhang wants to have free or subsidised legal assistance to help him claim for compensation from the Government. Question 1: Mr. Zhang wants to first obtain some free legal advice on his legal position. What should he do? Answer 1 Question 2: Mr. Zhang now wants to sue the Government, but he is not a Hong Kong permanent resident. Can he apply for free or subsidised legal representation for taking the proceedings? Answer 2 Question 3: Mr. Zhang knows that the Legal Aid Department is a Government Department. He is afraid that the lawyers and staff of the Legal Aid Department, being civil servants, may not help him full-heartedly against the Government. Is his concern justified? Answer 3 Question 4: Mr. Zhang used to earn \$20,000 per month, but he can no longer work as a result of the injuries. He owns a flat where he and his family live. The flat has a current market value of \$5,000,000. He has \$150,000 as savings in a bank, and some Hong Kong Bank shares with a market value of \$100,000. He has outstanding medical bills amounting to \$110,000. His wife, who is a housewife, has about \$80,000 as her savings. The couple live together with their 30-year-old son, who earns \$40,000 per month as an engineer and has \$500,000 as savings. Is Mr. Zhang financially eligible for Legal Aid? Answer 4 Question 5: From Mr. Zhang's viewpoint, is it more advantageous for him to obtain Legal Aid under the Ordinary Scheme or under the Supplementary Scheme? Answer 5 Question 6: In the above example, Mr. Zhang exceeds the financial resources limit of the Ordinary Legal Aid Scheme of \$420,400. Can he ask the Director of Legal Aid to relax the requirement and grant him Legal Aid under the Ordinary Scheme? Answer 6 Question 7: If Mr. Zhang is refused Legal Aid on the ground that he does not have enough merits in his claim, what can he do? Answer 7 Question 8: Assume Mr. Zhang is under the Ordinary Scheme. He wins the case at trial and recovers a sum of \$2 million as damages, plus \$300,000 as legal costs. The legal costs actually incurred by the Director of Legal Aid for Zhang's case amount to \$400,000. Mr. Zhang has paid \$42,500 as contribution under the Ordinary Scheme. How much money can Mr. Zhang eventually obtain? Answer 8 Question 9: Assume Mr. Zhang is under the Supplementary Scheme. He wins the case at trial and recovers from his opponent a sum of \$2 million as damages, plus \$300,000 as legal costs. The legal costs actually incurred by the Director of Legal Aid for Zhang's case amount to \$400,000. Mr. Zhang has paid \$76,783 as interim contribution under the Supplementary Scheme. How much money can Mr. Zhang eventually obtain? Answer 9 Question 10: What happens if Mr. Zhang loses at trial? Answer 10 Question 11: Mr. Zhang also wants to sue a local newspaper, which wrongly alleged that he came to Hong Kong to work illegally. Can he obtain Legal Aid for taking the proceedings? Answer 11 Answer 1: Mr. Zhang may seek free preliminary legal advice from the Free Legal Advice Scheme run by the Duty Lawyer Service. However, this Scheme will NOT provide legal representation in court proceedings. Answer 2: Yes, Mr. Zhang may apply for Legal Aid run by the Legal Aid Department. Legal Aid provides legal representation in civil proceedings to eligible applicants by a solicitor, and if necessary, a barrister. Mr. Zhang does not need to be a permanent resident of Hong Kong. Legal aid is available to any person in Hong Kong, whether the person is a Hong Kong resident or non-resident. Legal Aid will normally be granted if the applicant is able to satisfy the financial means test and the case merits test. Answer 3: Although the Legal Aid Department is a Government Department, it has a long and established practice of being run independently and impartially. It is the duty of the Legal Aid Department to provide Legal Aid for qualified applicant and to maintain professional standard and ethics. Moreover, there is a statutory body named Legal Aid Services Council which would oversee the administration of the legal aid services provided by the Legal Aid Department. As Mr. Zhang is taking action against the Government, upon granting of Legal Aid, the Legal Aid Department will normally assign lawyers in private practice to represent him in the proceedings to avoid any possible conflict of interest. Mr. Zhang may request the Legal Aid Department to assign a solicitor or barrister in private practice whom he trusts to represent him. If Mr. Zhang's suggested lawyer is on the

Legal Aid Panel and the suggested lawyer has the time and expertise to represent him in the proceedings, the Director of Legal Aid will usually respect his choice. Answer 4: First, we need to assess Mr. Zhang's financial resources according to the Legal Aid (Assessment of Resources and Contributions) Regulations. Financial resources are calculated by adding the applicant's disposable capital to his yearly disposable income. If the applicant is married, the spouse's income and capital will be treated as the applicant's for calculating the financial resources unless they have already separated or divorced, or that they have conflicting interest in the proceedings. Other family members' income or assets will not be taken in account. Disposable capital consists of all the applicant's assets of a capital nature, such as cash, bank savings, jewellery, antiques, stocks and shares, flats and properties. But it does not include the value of the applicant's flat if he normally lives in it, nor his household furniture, personal clothing and tools of trade. The value of any outstanding debt or liability of the applicant cannot be taken into account in reducing the applicant's disposable capital (unless the applicant has actually repaid it before the application for Legal Aid). Hence, in assessing Mr. Zhang's financial resources, his wife's assets will be included while his son's assets and income will be excluded. The value of his residential flat will be excluded. As he can no longer work and earn income, his disposable income will be treated as zero. Accordingly, Mr. Zhang's financial resources amount to \$330,000.

Details of Calculation	Disposal Income	His Income	Nil	His Wife's Income	Nil	His Son's income
Not applicable	Disposal Capital	His Savings	\$150,000	His Hong Kong Bank Shares	\$100,000	His Wife's Savings
\$80,000	His Son's savings	Not applicable	Residential flat	Not applicable	Outstanding medical bills	Not applicable
Total Financial Resources	\$330,000	As it now stands,	Mr. Zhang is not financially eligible for the Ordinary Legal Aid Scheme, because his financial resources have exceeded the limit of \$420,400	But as his financial resources are between \$420,400.01 and \$2,102,000, he can satisfy the financial means test under the Supplementary Legal Aid Scheme. The Supplementary Scheme covers Mr. Zhang's case as his case involves personal injury claim.		

Answer 5: Mr. Zhang needs to contribute more money for the services under the Supplementary Legal Aid Scheme than under the Ordinary Legal Aid Scheme. Under the Ordinary Legal Aid Scheme, the contribution fee payable by an applicant ranges from \$768 to \$76,783 (depending on his assessed financial resources). However, under the Supplementary Scheme, the applicant must first pay a non-refundable application fee of \$1,000 and an interim contribution of \$76,783 upon acceptance of Legal Aid. If he wins and recovers any damages, he needs to pay a contribution amounting to 10% of the damages (This contribution will be reduced to 6% if the case is settled before a barrister is briefed to attend the trial). Please compare Answer 8 and Answer 9 to see the actual difference in the net sums Mr. Zhang eventually obtains under the two Schemes. In the example for the Supplementary Scheme, he effectively receives \$200,000 less (i.e. 10% of \$2 million damages awarded against the Government). Answer 6: No. The Director of Legal Aid has no power to grant Legal Aid under the Ordinary Scheme if the financial resources of the applicant exceed \$420,400. The only exception is that the Director of Legal Aid may waive the financial resources limit in human rights related litigation. But Mr. Zhang's case is not human rights related litigation. However, Mr. Zhang has outstanding medical bills amounting to \$110,000. If he first settles these outstanding bills out of his or his wife's assets before applying for Legal Aid, his financial resources will have been reduced from \$330,000 to \$220,000. In that situation, he will become financially eligible for the Ordinary Legal Aid Scheme. It should be noted that under section 10(2) of the Legal Aid Ordinance (Cap.91 of the Laws of Hong Kong), the Director of Legal Aid may refuse to grant Legal Aid if, in his opinion, the applicant has disposed of any capital or income for the purpose of satisfying the means test. This provision should not however disentitle the applicant simply because he has first settled some genuine outstanding liabilities before applying for Legal Aid. Answer 7: Legal Aid may be refused if Mr. Zhang does not have a reasonable chance of success in his claim against the Government. In his case, it seems that if there is a reasonable chance to establish that the accident was caused by the careless driving of the Government car driver, Legal Aid should not be refused. If Mr. Zhang is not satisfied with the refusal, he should appeal

to the Registrar of the High Court within 14 days of the refusal. The decision of the Registrar on appeal is generally final. Mr. Zhang may also try to seek help from the Bar Free Legal Service Scheme provided by the Hong Kong Bar Association. Answer 8: Under the Ordinary Legal Aid Scheme, if the aided person wins and recovers any money, he needs to pay for the legal costs incurred by the Director of Legal Aid on his behalf but which cannot be recovered from his opponent. The unrecoverable legal costs will (1) first be deducted from the contribution already paid and then (2) from the money recovered. Hence, Mr. Zhang can obtain a sum of \$1,942,500 out of the damages recovered. Details of Calculation (i) Damages Recovered \$2,000,000 LESS (ii) Unrecoverable legal costs (\$400,000 - \$300,000) (100,000) ADD (iii) Contribution Paid \$42,500 TOTAL ENTITLEMENT: \$1,942,500 If we take into account the contribution of \$42,500 previously paid by him, the net sum he obtains by taking the legal proceedings with the help of Legal Aid is \$1,942,500. Answer 9: Under the Supplementary Scheme, the applicant must first pay a non-refundable application fee of \$1,000 and an interim contribution of \$76,783 upon acceptance of Legal Aid. These are the only sums that the applicant needs to pay if he fails in the proceedings or cannot recover any money or property. If he wins and recovers any damages, he needs to pay a contribution amounting to 10% of the damages (or 6% if the case is settled before a barrister is briefed to attend the trial). The applicant also needs to pay for the legal costs incurred by the Director of Legal Aid on his behalf but which cannot be recovered from his opponent. The 10% contribution (or 6% as the case may be) and the unrecoverable legal costs will (1) first be deducted from the application fee and the interim contribution already paid and then (2) from the money recovered. Hence, Mr. Zhang can obtain a sum of \$1,700,000 out of the damages recovered. Details of Calculation (i) Damages Recovered \$2,000,000 LESS (ii) 10% contribution for successful claim (\$200,000) (iii) Unrecoverable legal costs (\$400,000 - \$300,000) (\$100,000) ADD (iv) Application Fee paid \$1,000 (v) Interim Contribution Paid \$76,783 ----- NET ENTITLEMENT: \$1,777,783 If we take into account the application fee and the interim contribution previously paid by him, the net sum he obtains by taking the legal proceedings with the help of Legal Aid under the Supplementary Scheme is \$1,777,783. Answer 10: The court will normally order an unsuccessful plaintiff (i.e. Mr. Zhang) to pay the legal costs incurred by the successful defendant. But as Zhang has obtained Legal Aid, any costs awarded against him shall generally be paid by the Director of Legal Aid as from the grant of Legal Aid. Hence, apart from paying the required contribution for obtaining Legal Aid, Zhang needs not be personally liable for the legal costs of the successful defendant (incurred after the grant of Legal Aid). Answer 11: No. Mr Zhang's intended action is a defamation claim against the newspaper. But neither of the two Legal Aid Schemes covers the claim of defamation. Mr. Zhang may try to seek legal advice or representation from the Bar Free Legal Service Scheme provided by the Hong Kong Bar Association. B. CRIMINAL CASE ILLUSTRATION Through the story of Mr. Mo, we shall give you an illustration of the more important aspects of the Duty Lawyer Scheme and the Legal Aid Scheme for criminal proceedings. B. CRIMINAL CASE ILLUSTRATION Mr. Mo was arrested by the police yesterday and was charged with the offence of domestic burglary (i.e. breaking into another person's flat to steal). The police have refused to release him on bail. He is brought to the Kwun Tong Magistrates Court this morning. Question 1: Mr. Mo does not know what to do. Can Mr. Mo obtain any free legal advice or representation for the hearing this morning? Answer 1 Question 2: The Magistrate adjourns the case for 21 days and allows Mr. Mo to be released on bail. Can Mr. Mo continue to have free legal representation for subsequent hearings at the Magistrates Court? Answer 2 Question 3: At the next hearing, at the prosecution's request the Magistrate orders that Mr. Mo's case be transferred to the District Court. Can Mr. Mo continue to have free or subsidised legal representation for subsequent hearings at the District Court? Answer 3 Question 4: Mr. Mo is single and lives alone in a rented flat at a monthly rent of \$6,000 (inclusive of rates and management fees). He earns \$15,000 per month and pays \$1,570 salaries tax a year. He has \$30,000 as savings in bank. Can Mr. Mo obtain Legal Aid? Answer 4 Question 5: Does Mr. Mo need to pay anything for obtaining legal representation under Legal Aid? Answer 5 Question 6: Mr. Mo is convicted by the District Court Judge after trial and is sentenced

to 3 years' imprisonment. He wants to appeal against the conviction. Can Mr. Mo continue to have legal representation by Legal Aid for his appeal? Answer 6

Answer 1: Yes, Mr. Mo can obtain free legal representation from the Duty Lawyer Scheme run by the Duty Lawyer Service. The Duty Lawyer Service has a Court Liaison Office in each and every Magistrates Court in Hong Kong. As Mr. Mo is held in custody, he will be contacted automatically by the staff of the Court Liaison Office at the cell of the Kwun Tong Magistrates Court before the hearing. The staff will ask him whether he wants to have free legal representation from the Duty Lawyer Scheme. As this is his first court appearance, the Scheme will not assess Mr. Mo's financial situation and will not charge him any fee. Once Mr. Mo confirms that he wants to have the service, the staff will take instructions from him as to (1) his personal and family background; (2) whether or not he intends to plead guilty to the charge; (3) in case he intends to plead guilty, what he wants the duty lawyer to say to the court in mitigation; and (4) if the case is adjourned, whether he wants to apply for bail and the proposed conditions for the bail. Later the duty lawyer (who is a qualified solicitor or barrister in private practice) will visit him at the cell of the Kwun Tong Magistrates Court before the hearing to take further instructions from him and answer his queries. He can seek advice from the duty lawyer as to whether he should plead guilty or about the bail application. The duty lawyer will then appear for him at the first hearing before the Magistrate.

Answer 2: Any application for legal representation in subsequent court hearing(s) is subject to a financial means test. In general, the application will be granted if Mr. Mo's gross annual income does not exceed \$197,040 (or \$16,420 per month). However, if the Administrator of the Duty Lawyer Service is satisfied that it is in the interests of justice to do so, he may grant legal representation even if Mr. Mo's gross annual income exceeds \$197,040. If Mr. Mo wishes to have legal representation for his subsequent court appearance, he needs to attend the Duty Lawyer Service's Court Liaison Office to go through the means test and fill in a statutory declaration of means. If Mr. Mo has successfully passed the means test, he will be required to pay a fixed handling charge of \$540. This is the only charge he has to pay, no matter how long the trial lasts. The Administrator of the Duty Lawyer Service has the discretion to waive the handling charge in cases of genuine hardship. Defendants receiving public assistance (e.g. Comprehensive Social Security Assistance) are automatically exempted from payment of the handling charge.

Answer 3: Mr. Mo can no longer receive legal representation from the Duty Lawyer Scheme, as it is not available in the District Court. But Mr. Mo may apply for free or subsidised legal representation from the Legal Aid Scheme run by the Legal Aid Department. The Legal Aid Department will assign qualified solicitors or barristers, in private practice, to provide legal representation in criminal cases to eligible defendants (1) for all cases tried in the District Court or the High Court; (2) for appeals against conviction or sentence passed by a Magistrate or a judge of the District Court or High Court (including further appeals to the Court of Final Appeal); and (3) for committal proceedings in Magistrates Courts. To qualify for Legal Aid, the applicant needs to pass a financial means test. The means test is to determine whether the applicant's assets and income have exceeded the financial resources limit for Legal Aid. Legal Aid will normally be granted to an accused person for dealing with a criminal charge without considering the merits of his defence, as long as he can satisfy the financial means test.

Answer 4: We need to first assess Mr. Mo's financial resources according to the Legal Aid (Assessment of Resources and Contributions) Regulations. Financial resources are calculated by adding the applicant's disposable capital to his yearly disposable income. Disposable capital consists of all the applicant's assets of a capital nature, such as cash, bank savings, jewellery, antiques, stocks and shares, flats and properties. But it does not include the value of the applicant's residential flat if he normally lives in it, nor his household furniture, personal clothing and tools of trade. Disposable income is the net income after various allowable deductions eg. rent or mortgage repayments in respect of the applicant's residential flat, rates, tax and the statutory personal allowances for one's own living expenses and dependants'. Mr. Mo has disposable capital of \$30,000 in the form of bank savings. He has a yearly disposable income of \$31,800. Hence his financial resources are \$61,800. Details of

Calculation Monthly Disposal Income His Income \$15,000 LESS Rental (\$6,000) Salaries Tax Personal Allowance (\$130) (\$6,220) \$2,650 Yearly Disposable Income (\$2,650 x 12) \$31,800 Disposal Capital His Bank Savings \$30,000 Total Financial Resource \$61,800 Mr. Mo therefore satisfies the means test for the Legal Aid Scheme, because his financial resources do not exceed the limit of \$420,400. Legal Aid will normally be granted to an accused person for dealing with a criminal charge so long as he can satisfy the means test, without considering the merits of his defence. Mr. Mo should therefore be able to obtain Legal Aid for the criminal proceedings in the District Court. Answer 5: Yes, Mr. Mo needs to pay a contribution fee of \$1,236 (i.e. 2% of his financial resources of \$61,800) for the Legal Aid service. If the accused person's financial resources exceed \$52,550, he will have to pay a contribution in accordance with the following table:

Scale of Contribution by an applicant for obtaining Criminal Legal Aid Assessed Financial Resources Contribution	
\$0 - \$52,550	Free (no contribution required)
\$52,550.01 - \$105,100	2% (i.e. \$1,051 - \$2,102)
\$105,100.01 - \$157,650	2.5% (i.e. \$2,628 - \$3,941)
\$157,650.01 - \$210,200	5% (i.e. \$7,883 - \$10,510)
\$210,200.01 - \$262,750	10% (i.e. \$21,020 - \$26,275)
\$262,750.01 - \$315,300	15% (i.e. \$39,413 - \$47,295)
\$315,300.01 - \$367,850	20% (i.e. \$63,060 - \$73,570)
\$367,850.01 - \$420,400	25% (i.e. \$91,963 - \$105,100)
\$420,400.01 or over	(Legal Aid normally refused, but may be granted in exceptional cases by the Director of Legal Aid if the interests of justice require) 30% - 67%

Answer 6: Mr. Mo needs to re-apply for Legal Aid as the Legal Aid Certificate previously granted only covered the trial proceedings in the District Court. As he is now serving a prison sentence, Mr. Mo should ask the staff of the Correctional Services to help him submit a new application for Legal Aid for the appeal proceedings. Apart from the means test, Mr. Mo also needs to satisfy the case merits test before he can obtain Legal Aid for the appeal proceedings. To satisfy the case merits test, Mr. Mo would have to show that he has reasonable grounds to appeal.

### FINANCIAL RESOURCES

#### FINANCIAL RESOURCES HOW ARE FINANCIAL RESOURCES CALCULATED?

Financial resources are calculated by adding together the applicant's disposable capital and yearly disposable income according to the Legal Aid (Assessment of Resources and Contributions) Regulations. If the applicant is married, the spouse's income and capital will be treated as the applicant's for calculating the financial resources unless they have already separated or divorced, or they have conflicting interest in the proceedings. Other family members' income or assets will not be taken in account. If the applicant is receiving assistance under the Comprehensive Social Security Assistance Scheme administered by the Director of Social Welfare, it is generally presumed that his financial resources do not exceed \$52,550 (unless there is evidence to the contrary). If the applicant is applying for Legal Aid on behalf of his child under 18 years old, only the child's assets and income will be assessed.

#### WHAT IS DISPOSABLE CAPITAL?

Disposable capital consists of all the applicant's assets of a capital nature, such as cash, bank savings, jewellery, antiques, stocks and shares, flats and properties. But it does not include the value of the applicant's residential flat, his household furniture, personal clothing and tools of trade. It also does not include any assets which are the subject matter of disputes in the proceedings for which Legal Aid is applied. The value of any outstanding debt or liability of the applicant cannot be taken into account in reducing the applicant's disposable capital (unless the applicant has actually repaid it before the application for Legal Aid). If the applicant is married, the spouse's disposable capital will be treated as the applicant's unless they have already separated or divorced, or they have conflicting interest in the proceedings. Other family members' assets will not be taken in account. If the applicant has reached the age of 60, an amount of capital equal to the financial eligibility limit of the Ordinary Legal Aid Scheme, i.e. \$420,400, will not be counted as his/her capital.

#### WHAT IS DISPOSABLE INCOME?

Disposable income is the net income after various allowable deductions eg. rent or mortgage repayments in respect of the applicant's residential flat, rates, tax, maintenance (alimony) payable to ex-spouse or children, statutory personal allowances for the applicant and his dependants, and expenses for the provision for the care of dependants who cannot take care of themselves while the applicant is at work. If the applicant is married, the spouse's disposable income will be treated as the applicant's

unless they have already separated or divorced, or they have conflicting interest in the proceedings. Other family members' income will not be taken in account. HAVE MY FINANCIAL RESOURCES EXCEEDED THE LIMIT FOR LEGAL AID? If you want to have a preliminary assessment as to whether you are financially eligible for Legal Aid, please go to the Legal Assistance Eligibility Calculator. FINANCIAL RESOURCES FINANCIAL RESOURCES HOW ARE FINANCIAL RESOURCES CALCULATED? Financial resources are calculated by adding together the applicant's disposable capital and yearly disposable income according to the Legal Aid (Assessment of Resources and Contributions) Regulations. If the applicant is married, the spouse's income and capital will be treated as the applicant's for calculating the financial resources unless they have already separated or divorced, or they have conflicting interest in the proceedings. Other family members' income or assets will not be taken in account. If the applicant is receiving assistance under the Comprehensive Social Security Assistance Scheme administered by the Director of Social Welfare, it is generally presumed that his financial resources do not exceed \$52,550 (unless there is evidence to the contrary). If the applicant is applying for Legal Aid on behalf of his child under 18 years old, only the child's assets and income will be assessed. WHAT IS DISPOSABLE CAPITAL? Disposable capital consists of all the applicant's assets of a capital nature, such as cash, bank savings, jewellery, antiques, stocks and shares, flats and properties. But it does not include the value of the applicant's residential flat, his household furniture, personal clothing and tools of trade. It also does not include any assets which are the subject matter of disputes in the proceedings for which Legal Aid is applied. The value of any outstanding debt or liability of the applicant cannot be taken into account in reducing the applicant's disposable capital (unless the applicant has actually repaid it before the application for Legal Aid). If the applicant is married, the spouse's disposable capital will be treated as the applicant's unless they have already separated or divorced, or they have conflicting interest in the proceedings. Other family members' assets will not be taken in account. If the applicant has reached the age of 60, an amount of capital equal to the financial eligibility limit of the Ordinary Legal Aid Scheme, i.e. \$420,400, will not be counted as his/her capital. WHAT IS DISPOSABLE INCOME? Disposable income is the net income after various allowable deductions eg. rent or mortgage repayments in respect of the applicant's residential flat, rates, tax, maintenance (alimony) payable to ex-spouse or children, statutory personal allowances for the applicant and his dependants, and expenses for the provision for the care of dependants who cannot take care of themselves while the applicant is at work. If the applicant is married, the spouse's disposable income will be treated as the applicant's unless they have already separated or divorced, or they have conflicting interest in the proceedings. Other family members' income will not be taken in account. HAVE MY FINANCIAL RESOURCES EXCEEDED THE LIMIT FOR LEGAL AID? If you want to have a preliminary assessment as to whether you are financially eligible for Legal Aid, please go to the Legal Assistance Eligibility Calculator. SCALE OF CONTRIBUTION BY AN APPLICANT FOR OBTAINING CRIMINAL LEGAL AID SCALE OF CONTRIBUTION BY AN APPLICANT FOR OBTAINING CRIMINAL LEGAL AID Assessed Financial Resources Contribution \$0 - \$52,550 Free (no contribution required) \$52,550.01 - \$105,100 2% (i.e. \$1,051- \$2,102) \$105,100.01 - \$157,650 2.5% (i.e. \$2,628 - \$3,941) \$157,650.01 - \$210,200 5% (i.e. \$7,883 - \$10,510) \$210,200.01 - \$262,750 10% (i.e. \$21,020 - \$26,275) \$262,750.01 - \$315,300 15% (i.e. \$39,413 - \$47,295) \$315,300.01 - \$367,850 20% (i.e. \$63,060 - \$73,570) \$367,850.01 - \$420,400 25% (i.e. \$91,963 - \$105,100) \$420,400.01 or over (Legal Aid normally refused, but may be granted in exceptional cases by the Director of Legal Aid if the interests of justice require) 30% - 67% SCALE OF CONTRIBUTION FOR OBTAINING CIVIL LEGAL AID UNDER THE ORDINARY SCHEME SCALE OF CONTRIBUTION FOR OBTAINING CIVIL LEGAL AID UNDER THE ORDINARY SCHEME Assessed Financial Resources Contribution \$0 - \$52,550 Free (no contribution required) \$52,550.01 - \$105,100 2% (i.e. \$1,051- \$2,102) \$105,100.01 - \$157,650 2.5% (i.e. \$2,628 - \$3,941) \$157,650.01 - \$210,200 5% (i.e. \$7,883 - \$10,510) \$210,200.01 - \$262,750 10% (i.e. \$21,020 - \$26,275) \$262,750.01 - \$315,300 15% (i.e. \$39,413 - \$47,295) \$315,300.01 - \$367,850 20% (i.e. \$63,060 - \$73,570) \$367,850.01 - \$420,400 25% (i.e. \$91,963 - \$105,100) Last revision date: 3 August, 2022 CONTRIBUTION REQUIRED UNDER THE

SUPPLEMENTARY LEGAL AID SCHEME CONTRIBUTION REQUIRED UNDER THE SUPPLEMENTARY LEGAL AID SCHEME Type I Proceedings For (1) claims arising from personal injuries or death; (2) employees' compensation claims; and (3) representation for employees in appeals against awards made by the Labour Tribunal, you must first pay a non-refundable application fee of \$1,000. You also need to pay an interim contribution of \$76,783 upon acceptance of Legal Aid. This interim contribution is all you have to pay for the legal services if you eventually lose in the proceedings or cannot recover any damages (compensation). However, if you win and recover any damages, you need to pay a contribution amounting to 10% of the damages. This contribution will be reduced to 6% if the case is settled before a barrister is briefed to attend the trial. You also need to pay for the legal costs incurred by the Director of Legal Aid on your behalf but which cannot be recovered from your opponent. The 10% (or 6%, as the case may be) contribution and unrecoverable legal costs will be deducted (1) first from the interim contribution and application fee already paid and then (2) the damages recovered. For example, if (1) you win the case at trial and recover a sum of \$2 million as damages, plus \$300,000 as legal costs, (2) the legal costs actually incurred by the Director of Legal Aid for your case amount to \$400,000, and (3) you have paid the application fee of \$1,000 and the interim contribution of \$76,783, then the net sum you can receive will be \$1,777,783. Details of Calculation (i) Damages Recovered \$2,000,000 LESS (ii) 10% contribution for successful claim (\$200,000) (iii) Unrecoverable legal costs (\$400,000 - \$300,000) (\$100,000) ADD (iv) Application Fee paid \$1,000 (v) Interim Contribution Paid \$76,783 ----- NET ENTITLEMENT: \$1,777,783 Type II Proceedings For (i) medical, dental and legal professional negligence claims; (2) professional negligence claims against certified public accountants (practising), registered architects, registered professional engineers, registered professional surveyors, registered professional planners, authorized land surveyors, registered landscape architects and estate agents; (3) negligence claims against insurers or their intermediaries in respect of the taking out of personal insurance products; and (4) monetary claims against vendors in the sale of completed or uncompleted first-hand residential properties, you must first pay a non-refundable application fee of \$5,000. You also need to pay an interim contribution of 10% of your assessed financial resources or \$76,783, whichever is the higher, upon acceptance of Legal Aid. This interim contribution is all you have to pay for the legal services if you eventually lose in the proceedings or cannot recover any damages (compensation). However, if you win and recover any damages, you need to pay a contribution amounting to 20% of the damages. This contribution will be reduced to 15% if the case is settled before a barrister is briefed to attend the trial. You also need to pay for the legal costs incurred by the Director of Legal Aid on your behalf but which cannot be recovered from your opponent. The 20% (or 15%, as the case may be) contribution and unrecoverable legal costs will be deducted (1) first from the interim contribution and application fee already paid and then (2) the damages recovered. Last revision date: 20 May, 2020 CONTRIBUTION REQUIRED UNDER THE ORDINARY LEGAL AID SCHEME CONTRIBUTION REQUIRED UNDER THE ORDINARY LEGAL AID SCHEME If your financial resources assessed by the Director of Legal Aid do not exceed \$52,550, you do not need to pay any fee for obtaining Legal Aid. The financial resources of an applicant who is receiving Comprehensive Social Security Assistance will normally be considered as NOT exceeding \$52,550 (unless there is any evidence to the contrary). If your financial resources assessed by the Director of Legal Aid are between \$52,550.01 and \$420,400, you will have to pay a contribution ranging from \$1,051 to \$105,100 upon acceptance of Legal Aid. This contribution fee is all you have to pay for the legal services if you eventually lose in the proceedings or cannot recover any money or property. However, if you win and recover or preserve any money or property, you also need to pay for the legal costs incurred by the Director of Legal Aid on your behalf but which cannot be recovered from your opponent. The unrecoverable legal costs will (1) first be deducted from the contribution already paid and then (2) from the money or property recovered or preserved. For example, if (1) you have paid a contribution fee of \$10,000, (2) you succeed in your claim and recover \$1,000,000 from the other party, (3) the legal costs incurred by the Director of Legal Aid on your behalf amount to \$400,000, and (4) the legal costs

recoverable from the other party amount to \$300,000, then the net sum you can receive will be \$910,000 [i.e. This is the \$1,000,000 settlement sum, minus the shortfall in legal costs of \$90,000. The \$90,000 results from the total legal costs of \$400,000 minus the \$300,000 in legal costs recovered from the other party and your contribution fee of \$10,000.] Please [click here](#) to see the scale of contribution for obtaining civil legal aid under the ordinary scheme. Last revision date: 3 August, 2022