

《法律援助 (費用計算) 規例》
(第 91 章，附屬法例 C)
Legal Aid (Scale of Fees) Regulations
(Cap. 91 sub. leg. C)

版本日期
Version date
11.4.2019

經核證文本
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(《法例發布條例》(第 614 章) 第 5 條)
 (Legislation Publication Ordinance (Cap. 614), section 5)

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整條 Whole	1—12	11.4.2019

尚未實施的條文 / 修訂 ——

尚未實施的條文及修訂的資料，可於「電子版香港法例」(<http://www.elegislation.gov.hk>) 閱覽。

Provisions / Amendments not yet in operation —

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制定史

本為 1989 年第 187 號法律公告——1989 年編正版，1992 年第 196 號法律公告，1994 年第 (C)29 號法律公告 (中文真確本)，1995 年第 79 號，1998 年第 25 號，2000 年第 28 號，2019 年第 1 號編輯修訂紀錄

Enactment History

Originally L.N. 187 of 1989 — R. Ed. 1989, L.N. 196 of 1992, L.N. (C) 29 of 1994 (Chinese authentic version), 79 of 1995, 25 of 1998, 28 of 2000, E.R. 1 of 2019

《法律援助（費用計算）規例》

（第 91 章，附屬法例 C）

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Legal Aid (Scale of Fees) Regulations

(Cap. 91 sub. leg. C)

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《法律援助（費用計算）規例》

(第 91 章第 28 條)

[1989 年 6 月 23 日]

(格式變更——2019 年第 1 號編輯修訂紀錄)

1. 引稱

本規例可引稱為《法律援助（費用計算）規例》。

2. 釋義

在本規例中，除文意另有所指外——

主理訟費評定事務聆案官 (taxing master) 指根據《香港終審法院條例》(第 484 章) 第 43 條行事的人員或由高等法院司法常務官出任的主理訟費評定事務聆案官，與曾在區域法院進行的法律程序有關時，則指由區域法院司法常務官出任的主理訟費評定事務聆案官；(1995 年第 79 號第 50 條；1998 年第 25 號第 2 條；2000 年第 28 號第 47 條)

定額訟費 (fixed costs) 指任何條例或法院規則訂明須付予律師的定額訟費；

法院規則 (rules of court) 指根據《香港終審法院條例》(第 484 章)、《高等法院條例》(第 4 章) 或《區域法院條例》(第 336 章) 訂立的法院規則。(1995 年第 79 號第 50 條；1998 年第 25 號第 2 條)

(2019 年第 1 號編輯修訂紀錄)

3. 須就根據本條例第 9 條作出的報告或提供意見繳付的費用

署長就大律師或律師根據本條例第 9 條作出的報告或提供的

Legal Aid (Scale of Fees) Regulations

(Cap. 91, section 28)

[23 June 1989]

(Format changes—E.R. 1 of 2019)

1. Citation

These regulations may be cited as the Legal Aid (Scale of Fees) Regulations.

2. Interpretation

In these regulations, unless the context otherwise requires—

fixed costs (定額訟費) means fixed costs prescribed by any Ordinance or rules of court as payable to a solicitor;

rules of court (法院規則) means the rules of court made under the Hong Kong Court of Final Appeal Ordinance (Cap. 484), the High Court Ordinance (Cap. 4) or the District Court Ordinance (Cap. 336); (79 of 1995 s. 50; 25 of 1998 s. 2)

taxing master (主理訟費評定事務聆案官) means the officer acting under section 43 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) or the Registrar of the High Court acting as taxing master, or, in relation to proceedings that have been conducted in the District Court, the Registrar of the District Court acting as taxing master. (79 of 1995 s. 50; 25 of 1998 s. 2)

3. Fee payable for report or opinion under section 9

The fee payable by the Director to counsel or solicitor making a

意見而須付予該大律師或律師的費用，數額由署長決定。

4. 一般情況下付予大律師的費用

署長須付予代受助人行事的大律師的費用，為經評定後獲准的款額；如無作出評定，則由署長訂定，但不得超過署長認為假若作出評定便會獲准的款額。

5. 付予律師的費用及訟費

署長須付予代受助人行事的律師以下款額——

- (a) 就代墊付費用作出評定後獲准的整筆款額；
- (b) 就律師服務費用作出評定後獲准的整筆款額；及
- (c) 如屬定額訟費適用的情況，而有關律師已選擇收取定額訟費，則付予定額訟費的整筆款額，

如無作出評定，或律師並無選擇收取定額訟費，則款額由署長訂定，但不得超過署長認為假若作出評定便會獲准的款額，或假若律師選擇收取定額訟費便須繳付的款額。

6. 預付費用予大律師或律師

- (1) 在訟費評定之前，署長可預付一筆款項予大律師或律師，款額不得超過署長估計根據第 4 或 5 條須繳付的數額的 75%，預付款項為署長須繳付的上述款項的其中一部分。
- (2) 如根據第 (1) 款繳付的款額超過根據第 4 或 5 條須繳付的款額，則有關的大律師或律師須將超出之數付還署長。

report or giving an opinion under section 9 of the Ordinance shall be such sum as the Director may decide.

4. Fees payable to counsel generally

The fees payable by the Director to counsel acting for an aided person shall be such as may be allowed on taxation or, in default of taxation, as may be fixed by the Director, not exceeding such amount as in the opinion of the Director would have been allowed if there had been taxation.

5. Fees and costs payable to solicitor

The amount payable by the Director to a solicitor acting for an aided person shall be—

- (a) the full amount allowed on taxation on account of disbursements;
- (b) the full amount allowed on taxation on account of profit costs; and
- (c) in cases where fixed costs are applicable and the solicitor has made an election to take fixed costs, the full amount of such fixed costs,

or, in default of taxation or where an election to take fixed costs has not been made, an amount as may be fixed by the Director, not exceeding such amount as in the opinion of the Director would have been allowed if there had been taxation or would have applied if there had been an election to take fixed costs.

6. Advance of fees to counsel and solicitor

- (1) The Director may before taxation make an advance to counsel or solicitor of an amount not exceeding 75% of the sum which the Director estimates will be payable under regulation 4 or 5 and such advance shall be on account of moneys so payable.

7. 轉介他人處理的案件的費用及訟費

如任何人就某案件獲得法律援助，而該案件由法院轉介予他人處理，則須付予大律師及律師的費用及訟費，須相等於猶如該已被轉介的案件在作出轉介的法院進行法律程序一樣所須付的費用及訟費，而所有與該已被轉介的案件相關的法律程序均須由作出轉介的法院評定訟費，猶如該等法律程序在該法院進行一樣。

8. 訟費於評定後遭拒准或削減

- (1) 在不損害法院規則的原則下，於評定受助人在任何法律程序中的訟費時，如受助人的律師無充分理由而延遲提交其訟費單以供評定，則整筆律師服務費用可遭拒准或削減。
- (2) 如大律師的費用經評定後遭拒准或削減，受助人的律師須隨即通知該大律師。

9. 律師有責任保障基金的利益

在依據判令受助人獲得訟費的繳付訟費命令而進行訟費評定時，如該受助人在評定結果中可能沒有個人利害關係，則受助人的律師有責任保障由署長控制的基金的利益，並為此而採取該律師覺得需要採取的步驟，以便根據第 10 或 11 條獲法院覆核該項評定。

10. 反對訟費評定的申請

凡 ——

- (2) If the amount paid under subregulation (1) exceeds the amount payable under regulation 4 or 5, the counsel or solicitor, shall repay the excess to the Director.

7. Fees and costs in referred cases

If a case, in respect of which legal aid has been granted, is referred to any person by a court, there shall be payable to counsel and solicitor the same fees and costs as would have been payable if the reference had been a proceeding in the court by which it was referred, and all proceedings in connection with such reference shall be taxed by the court which referred them as if they were proceedings in the court.

8. Disallowance or reduction of costs on taxation

- (1) Without prejudice to the rules of court, on the taxation of an aided person's costs in any proceedings where the aided person's solicitor has without good reason delayed in filing his bill of costs for taxation the whole of the profit costs may be disallowed or reduced.
- (2) The aided person's solicitor shall forthwith inform counsel of any disallowance or reduction of counsel's fees on taxation.

9. Solicitor's duty to safeguard interest of fund

On any taxation pursuant to an order for costs made in favour of an aided person where that person may himself have no interest in the result of the taxation, it shall be the duty of an aided person's solicitor to safeguard the interest of funds in the Director's control, and for this purpose to take such steps as may appear to a solicitor to be necessary to obtain a review of taxation under regulation 10 or 11.

10. Application to make objections to taxation

Where ——

- (a) 主理訟費評定事務聆案官就受助人憑藉判令或訂明其獲得訟費的繳付訟費命令或協議而有權收回的款額，或就受助人憑藉判令其繳付訟費的繳付訟費命令而有責任繳付的款額，作出決定，而受助人對該決定感到不滿；或
- (b) 主理訟費評定事務聆案官依據判令受助人獲得訟費的繳付訟費命令評定訟費後作出決定，而受助人的律師對該決定感到不滿，

該律師須向署長申請授權就該項評定提出反對；如獲署長授權，該律師可即時按照法院規則提出反對。

11. 向法官申請要求覆核訟費評定

凡受助人或其律師（視屬何情況而定）對主理訟費評定事務聆案官就任何事宜所作的決定感到不滿，並已根據第 10 條就該事宜提出反對，該律師須向署長申請授權要求覆核該項評定；如獲署長授權，該律師可即時親自或透過大律師向法官申請要求按照法院規則覆核該項評定。

12. 大律師對訟費評定感到不滿

凡代表受助人行事的大律師對任何有關訟費評定的決定感到不滿，受助人的律師有責任向署長報告此事；如署長就此事授予權力，該律師須就訟費評定提出反對，或向法官申請（視屬何情況而定），要求覆核該項評定，而第 10 及 11 條適用於此情況，猶如該律師是感到不滿的人一樣。

13. 另一方提出反對

在受助人為其中一方的法律程序中，如有任何其他一方就訟

- (a) an aided person is dissatisfied with any decision of a taxing master in regard to the amount which he is entitled to recover by virtue of an order or agreement for costs made in his favour or for which he is liable by virtue of an order for costs made against him; or
- (b) the aided person's solicitor is dissatisfied with any decision of the taxing master on a taxation pursuant to an order for costs made in favour of the aided person,

the solicitor shall apply to the Director for authority to make objections to the taxation; and if the Director gives authority, the solicitor may thereupon make objections in accordance with the rules of court.

11. Application to judge to review taxation

Where the aided person or his solicitor, as the case may be, is dissatisfied with the decision of a taxing master on any matter to which objection is made under regulation 10, the solicitor shall apply to the Director for authority to have the taxation reviewed; and if the Director gives authority, the solicitor may thereupon apply to a judge either personally or by counsel to review the taxation in accordance with the rules of court.

12. Counsel dissatisfied with taxation

Where counsel acting for an aided person is dissatisfied with any decision on a taxation, it shall be the duty of the aided person's solicitor to report the matter to the Director and if the Director gives authority in that behalf, to make objection to the taxation or to apply to a judge, as the case may be, to review the taxation, and regulations 10 and 11 shall apply as if the solicitor were the person dissatisfied.

13. Objection by other party

If, in proceedings to which an aided person is a party, any other

費評定提出反對，或向法官申請要求覆核該項評定，則即使受助人可能在該項評定中沒有個人利害關係，受助人的律師仍可就該項反對或覆核陳詞。

14. 評定訟費程序須當作在法律援助證書涵蓋的範圍之內

根據第 10 至 13 條進行的任何程序均須當作是受助人的法律援助證書所關乎的程序，不論該證書是否已被取消或撤回，而該等程序的訟費須從署長所控制的基金支付。

15. 受助人並無利害關係或有對立利害關係

凡受助人在訟費評定中沒有利害關係，或如無本條規定，受助人會與其律師有對立的利害關係——

- (a) 該律師如根據第 10 條提出反對或根據第 11 條申請覆核，便須有責任確保主理訟費評定事務聆案官或法官（視何者合適而定）獲呈報在考慮該項反對或進行覆核時在正當情況下須予考慮的一切事宜；
- (b) 受助人無須就第 10 至 13 條產生的任何法律程序的訟費，或就該等法律程序作出的任何命令所引致的訟費，支付任何分擔費用以撥入署長控制的基金內；及
- (c) 對署長因該等法律程序而增加承擔的費用淨額，根據本條例第 18A 條訂立的押記並不適用。

16. 時限

party makes objections to a taxation or applies to a judge to review the taxation the aided person's solicitor may be heard on the objection or review notwithstanding that the aided person himself may have no interest in the taxation.

14. Taxation proceedings deemed to be covered by legal aid certificate

Any proceedings under regulations 10 to 13 shall be deemed to be proceedings to which the aided person's legal aid certificate relates, whether or not it has been discharged or revoked, and the costs of such proceedings shall be paid out of funds in the Director's control.

15. Aided person having no interest or adverse interest

Where the aided person has no interest in the taxation or would, but for this regulation, have an interest adverse to that of his solicitor—

- (a) it shall be the duty of the solicitor making objections under regulation 10 or applying for a review under regulation 11 to ensure that all matters which are properly to be taken into account in considering the objections or on the review are placed before the taxing master or judge as appropriate;
- (b) the aided person shall not be required to make any contribution to the funds in the Director's control on account of the costs of any proceedings arising under regulations 10 to 13 or in consequence of any order made thereon; and
- (c) the charge created by section 18A of the Ordinance shall not apply as regards any resulting increase in the net liability of the Director.

16. Time limits

凡訟費評定的任何一方為受助人，則除非獲得雙方同意，否則不得在主理訟費評定事務聆案官作出決定後 14 天內簽署訟費證明書；如受助人的律師根據第 10 或 11 條申請授權提出反對或要求覆核訟費評定，他須在法院規則准許提出反對或申請覆核的時限屆滿前提出申請，並須即時將有關申請通知主理訟費評定事務聆案官及另一方。

17. (由 1992 年第 196 號法律公告廢除)

Where any party to a taxation is an aided person the certificate of costs shall not, save by consent, be signed within 14 days after the taxing master's decision; and where an aided person's solicitor applies under regulation 10 or 11 for authority to make objections or to have a taxation reviewed, he shall do so before the expiration of the time allowed by the rules of court for making objections or for applying for review and shall thereupon give notice to the taxing master and to the opposite party of his application.

17. (Repealed L.N. 196 of 1992)