

Chapter:	91C	LEGAL AID (SCALE OF FEES) REGULATIONS	Gazette Number	Version Date
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		Empowering section		30/06/1997
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(Cap 91, section 28)

[23 June 1989]

(Originally L.N. 187 of 1989)

Regulation:	1	Citation		30/06/1997
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These regulations may be cited as the Legal Aid (Scale of Fees) Regulations.

(Enacted 1989)

Regulation:	2	Interpretation	79 of 1995; 25 of 1998	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 25 of 1998 s. 2

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)

(Enacted 1989)

Regulation:	3	Fee payable for report or opinion under section 9		30/06/1997
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The fee payable by the Director to counsel or solicitor making a report or giving an opinion under section 9 of the Ordinance shall be such sum as the Director may decide.

(Enacted 1989)

Regulation:	4	Fees payable to counsel generally		30/06/1997
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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.

(Enacted 1989)

Regulation:	5	Fees and costs payable to solicitor		30/06/1997
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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.

(Enacted 1989)

Regulation:	6	Advance of fees to counsel and solicitor	30/06/1997
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(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.

(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.

(Enacted 1989)

Regulation:	7	Fees and costs in referred cases	30/06/1997
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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.

(Enacted 1989)

Regulation:	8	Disallowance or reduction of costs on taxation	30/06/1997
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(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.

(Enacted 1989)

Regulation:	9	Solicitor's duty to safeguard interest of fund	30/06/1997
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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.

(Enacted 1989)

Regulation:	10	Application to make objections to taxation	30/06/1997
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Where-

- (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.

(Enacted 1989)

Regulation:	11	Application to judge to review taxation	30/06/1997
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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.

(Enacted 1989)

Regulation:	12	Counsel dissatisfied with taxation		30/06/1997
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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.

(Enacted 1989)

Regulation:	13	Objection by other party		30/06/1997
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If, in proceedings to which an aided person is a party, any other 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.

(Enacted 1989)

Regulation:	14	Taxation proceedings deemed to be covered by legal aid certificate		30/06/1997
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Expanded Cross Reference:

10, 11, 12, 13

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.

(Enacted 1989)

Regulation:	15	Aided person having no interest or adverse interest		30/06/1997
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Expanded Cross Reference:

10,11,12,13

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.

(Enacted 1989)

Regulation:	16	Time limits		30/06/1997
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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.

(Enacted 1989)

Regulation:	17	(Repealed L.N. 196 of 1992)		30/06/1997
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