

Chapter:	221D	LEGAL AID IN CRIMINAL CASES RULES	Gazette Number	Version Date
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		Empowering section		30/06/1997
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(Cap 221 section 9A)

[1 January 1970] *L.N. 176 of 1969*

(Originally L.N. 130 of 1969)

Part:	I	PRELIMINARY		30/06/1997
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Rule:	1	Citation		30/06/1997
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These rules may be cited as the Legal Aid in Criminal Cases Rules.

Rule:	2	Interpretation	22 of 2004	16/07/2004
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(1) In these rules, unless the context otherwise requires-

- "aided person" (受助人) means a person who has been granted a legal aid certificate or an appeal aid certificate;
- "appeal aid certificate" (上訴援助證書) means an appeal aid certificate granted under rule 10, 11, 12 or 13;
- "appellant" (上訴人) means a person referred to in paragraph (c), (d), (e), (f), (g), or (h) of rule 4; (L.N. 122 of 1982)
- "counsel" (大律師) means a person who is enrolled as a barrister on the roll of barristers maintained in accordance with the provisions of the Legal Practitioners Ordinance (Cap 159), and who, at the material time, is not suspended from practice; (L.N. 122 of 1982; 79 of 1995 s. 50)
- "Director" (署長) means the Director of Legal Aid appointed under section 3 of the Legal Aid Ordinance (Cap 91) and any Deputy Director of Legal Aid, Assistant Director of Legal Aid and Legal Aid Officer so appointed; (24 of 1983 s. 7; L.N. 204 of 1984)
- "disposable capital" (可動用資產), in relation to an applicant for legal aid, means his capital as assessed under rule 15;
- "disposable income" (可動用收入), in relation to an applicant for legal aid, means his income as assessed under rule 15;
- "financial resources" (財務資源) means the financial resources of an aided person assessed in accordance with the Legal Aid (Assessment of Resources and Contributions) Regulations (Cap 91 sub. leg. B); (L.N. 199 of 1992)
- "legal aid" (法律援助) means representation, as provided by these rules, by counsel or solicitor or both;
- "legal aid certificate" (法律援助證書) means a legal aid certificate granted under rule 6, 7, 8 or 13;
- "Registrar" (司法常務官) means the Registrar of the High Court and, for the purposes of any proceedings before the Court of Final Appeal, includes the Registrar of the Court of Final Appeal; (L.N. 122 of 1982; 79 of 1995 s. 50; 25 of 1998 s. 2)
- "solicitor" (律師) means a person enrolled on the roll of solicitors maintained in accordance with the provisions of the Legal Practitioners Ordinance (Cap 159), and who, at the material time, is not suspended from practice. (L.N. 122 of 1982; 79 of 1995 s. 50)

(79 of 1995 s. 50)

(2) In these rules-

- (a) references to counsel or solicitor shall be read as including references to the Director if, under rule 14, he is representing an accused person or appellant;
- (b) (Repealed L.N. 199 of 1992)
- (c) any references to proceedings relating to an appeal to, or an application for leave to appeal to, the Court of Final Appeal shall include proceedings relating to any opposition to such an appeal or application. (L.N. 122 of 1982; 79 of 1995 s. 50)

- (3) In these rules, in any case to which rule 4(1)(ca) applies-
- (a) the prescribed prisoner referred to in that rule shall be regarded as included in any reference to accused person or accused persons or to appellant or appellants, as the case may be; and
 - (b) the provisions of these rules shall apply to such case with such modifications as the circumstances require, and, without limiting the generality of the foregoing-
 - (i) rule 9(a) shall be read as if the reference to "convicted" were a reference to the subject of a determination under section 67C of the Ordinance, and the reference to "his conviction or sentence or both" were a reference to such determination under that section;
 - (ii) rule 10(a) shall be read as if it referred also to the certificate of solicitor or counsel assigned to represent the prescribed prisoner in question in the proceedings instituted under section 67C of the Ordinance as given under rule 9(a) (as read in accordance with sub-subparagraph (i)); and
 - (iii) rule 21(1)(a) and (d), (2), (4)(a) and (5) shall be read as if any reference to "the trial", "a trial" or "any trial" were a reference to the proceedings instituted under section 67C of the Ordinance, and the reference to "tried together" were a reference to the subjects of such proceedings instituted under that section that are conducted together. (22 of 2004 s. 3)

Rule:	3	Panels of counsel and solicitors	30/06/1997
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(1) The Director shall prepare and maintain separate panels of counsel and solicitors enrolled on the rolls of barristers and solicitors maintained in accordance with the provisions of the Legal Practitioners Ordinance (Cap 159) who are willing to act for aided persons. (L.N. 122 of 1982; L.N. 323 of 1983)

(2) (Repealed L.N. 323 of 1983)

(3) The Director shall enter in the appropriate panel any limitation as to the number per annum and as to the type of proceedings in which a counsel or solicitor is prepared to act for aided persons and shall give effect to such limitation.

(4) Any counsel or solicitor shall be entitled to have his name included on the appropriate panel, unless the Director is satisfied that there is good reason for excluding him by reason of his conduct when acting or assigned to act for persons receiving legal aid or of his professional conduct generally. (L.N. 323 of 1983)

(5) The Director shall not include the name of a counsel or solicitor on a panel unless he is satisfied that such counsel or solicitor has a practising certificate, and shall remove from the panel the name of any counsel or solicitor who does not have a practising certificate. (L.N. 323 of 1983)

(6) For the removal of doubt, it is hereby declared that where a solicitor is assigned to an aided person for the purpose of any proceedings, any other solicitor in the same firm as the solicitor assigned may act for such person therein-

(a) except where the assignment is one to which rule 21(1)(c), (l) or (n) applies; or (L.N. 115 of 1985)

(b) in the case of an assignment to which rule 21(1)(c), (l) or (n) applies, if the Director gives his prior consent. (L.N. 115 of 1985)

(7) Subject to paragraph (8), a counsel or solicitor assigned to act for an aided person shall not discontinue his aid without the leave of the Director.

(8) Nothing in this rule shall prejudice the right of counsel or solicitor to refuse, or to give up, a case on reasonable grounds.

(9) Subject to paragraph (7), a counsel or solicitor may at any time request the Director to remove his name from a panel, and the Director shall comply with such request. (L.N. 323 of 1983)

(10) In this rule-

"practising certificate" (執業證書) means a practising certificate in force under section 6 or 30 of the Legal Practitioners Ordinance (Cap 159).

(11) Any counsel or solicitor who was entered on a panel maintained for the purposes of this rule prior to the commencement of the Legal Aid in Criminal Cases (Amendment) Rules 1983 (L.N. 323 of 1983) shall be deemed to be entered on the appropriate panel maintained under this rule upon such commencement:

Provided that any such counsel or solicitor may request that an entry be made under paragraph (3) limiting the type of proceedings in which he is prepared to act by excluding therefrom any type of proceedings in which he had not indicated willingness to act prior to such commencement, and the Director shall comply with any such request. (L.N. 323 of 1983)

Part:	II	GRANT OF LEGAL AID	22 of 2004	16/07/2004
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Rule:	4	Legal aid for accused persons and appellants	22 of 2004	16/07/2004
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- (1) Subject to any requirement to make contributions under Part III- (L.N. 204 of 1984)
- (a) an accused person committed for trial before the Court of First Instance may be granted legal aid under these rules for the preparation and conduct of his defence and for any plea arising from the indictment; (25 of 1998 s. 2)
 - (aa) an accused person in respect of whom proceedings have been transferred to the Court of First Instance under section 4 of the Complex Commercial Crimes Ordinance (Cap 394) may be granted legal aid under these rules for the preparation and conduct of his defence including any application for discharge under section 22 of that Ordinance and any appeal arising therefrom; (57 of 1988 s. 33; 25 of 1998 s. 2)
 - (b) a person charged before the District Court with any offence may be granted legal aid under these rules for the preparation and conduct of his defence and for any plea arising from the charge sheet; (L.N. 70 of 1973; L.N. 64 of 1978)
 - (c) a person convicted of any offence before the Court of First Instance or the District Court may be granted legal aid under these rules for any appeal to the Court of Appeal and in any proceedings preliminary or incidental thereto; (25 of 1998 s. 2)
 - (ca) a prescribed prisoner within the meaning of section 67C of the Ordinance may be granted legal aid under these rules for the purposes of any proceedings instituted under that section and any appeal or other proceedings arising therefrom or preliminary or incidental thereto; (22 of 2004 s. 4)
 - (d) the respondent in an appeal to the Court of Appeal under section 84 of the District Court Ordinance (Cap 336) may be granted legal aid under these rules for the appeal and in any proceedings preliminary or incidental thereto; (L.N. 169 of 1969)
 - (e) a respondent referred to in section 81A of the Ordinance may be granted legal aid under these rules for the hearing of an application for the review of any sentence under that section; (L.N. 167 of 1972)
 - (f) a person who is convicted by, or aggrieved by, an order or determination of a magistrate in respect of or in connexion with any offence may be granted legal aid under these rules for the purpose of any appeal to the Court of First Instance and any proceedings preliminary or incidental thereto; (L.N. 148 of 1973; 25 of 1998 s. 2)
 - (g) a respondent in an appeal by way of case stated by the Secretary for Justice under section 105 of the Magistrates Ordinance (Cap 227) may be granted legal aid under these rules for the appeal and in any proceedings preliminary or incidental thereto; (L.N. 65 of 1976; L.N. 362 of 1997)
 - (h) a person convicted of any offence may be granted legal aid under these rules for any appeal to, or any application for leave to appeal to, the Court of Final Appeal and any proceedings preliminary or incidental thereto; (L.N. 122 of 1982; 79 of 1995 s. 50)
 - (i) (Repealed L.N. 182 of 1993)
 - (j) an accused person in respect of whom a magistrate has appointed a return day for the continuation of committal proceedings may be granted legal aid under these rules for the preparation and conduct of his defence including any application for discharge under section 16 and any appeal arising therefrom; (48 of 1983 s. 5; L.N. 204 of 1984)
 - (k) a person ordered to appear before the Court of First Instance or the District Court to be dealt with under the Community Service Orders Ordinance (Cap 378) may be granted legal aid under these rules for the purpose of the proceedings; (L.N. 115 of 1985; L.N. 157 of 1986; 25 of 1998 s. 2)
 - (l) a person who is to be dealt with by a judge of the District Court under section 20 or 21 of the District Court Ordinance (Cap 336) may be granted legal aid under these rules for the purpose of the proceedings, (L.N. 115 of 1985; L.N. 157 of 1986)

if the Director is satisfied that his financial resources do not exceed the limits specified in section 5 of the Legal Aid Ordinance (Cap 91) in relation to the grant of legal aid under that Ordinance. (L.N. 427 of 1982; L.N. 323 of 1983; L.N. 115 of 1985; L.N. 199 of 1992)

(2) Where a person has been granted legal aid for any matter specified in paragraph (1) he may also be granted legal aid for any proceedings arising out of or connected with such matter, including any application for bail or an appeal against refusal to grant bail. (L.N. 204 of 1984)

(3) Where an accused person has been granted legal aid under paragraph (1)(a), (b) or (j) and a letter of request has been issued by the Court of First Instance under section 77E of the Evidence Ordinance (Cap 8) addressed to a court or tribunal exercising jurisdiction in a place outside Hong Kong, he may also be granted legal aid for any proceedings in that court or tribunal in connection with the letter of request. (L.N. 157 of 1986; 25 of 1998 s. 2)

Rule:	5	Application for legal aid		30/06/1997
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An application for legal aid under rule 4 shall be made to the Director in such manner and form as the Director may require.

(L.N. 199 of 1992)

Rule:	6	Consideration of application for legal aid		30/06/1997
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Subject to rule 13 in the case of a capital charge, in determining an application for legal aid by an accused person the Director shall consider-

- (a) all the circumstances of the case and, in particular, any recommendation of the committing magistrate; and
- (b) the financial resources of the accused person, (L.N. 199 of 1992)

and shall not grant the application unless he is satisfied that legal aid is desirable in the interests of justice.

Rule:	7	Grant of legal aid certificate		30/06/1997
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(1) Where the Director is satisfied that the accused person should be granted legal aid, the Director shall-

- (a) grant him a legal aid certificate; and
- (b) assign a solicitor and, if the Director thinks fit, 1 or 2 counsel, one of whom may be leading counsel, as the Director thinks fit, to represent him. (L.N. 323 of 1983)

(1A) Where an accused person has been granted legal aid under rule 4(3), the Director shall engage, for the purpose of representing the accused person in the court or tribunal referred to in that rule, the services of 1 or, if the Director thinks fit, more than 1 lawyer who is or are, as the case may be,-

- (a) qualified to represent the accused person in such court or tribunal; and
- (b) not suspended from practice before such court or tribunal. (L.N. 157 of 1986)

(2) A legal aid certificate-

- (a) shall be in such form as the Director may require; and (L.N. 199 of 1992)
- (b) shall be forwarded by the Director to the accused person with a copy to the appropriate court in Hong Kong and to solicitor or counsel assigned under these rules. (L.N. 70 of 1973; L.N. 122 of 1982)

Rule:	8	Refusal to grant legal aid	79 of 1995	01/07/1997
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(1) Where the Director is not satisfied that the accused person should be granted legal aid, the Director shall refuse the application and shall file in the appropriate court in Hong Kong a notice of his refusal in such form as he may determine. (L.N. 70 of 1973; L.N. 136 of 1981; L.N. 412 of 1981; L.N. 122 of 1982; L.N. 199 of 1992)

(2) Where the Director is not satisfied that the financial resources of the accused person do not exceed the relevant amount specified in rule 4, the refusal of the application shall be final and may not be disturbed. (L.N. 204 of 1984; L.N. 199 of 1992)

(3) Except in relation to an appeal to the Court of Final Appeal or an application to the Court of Final Appeal for leave to make such an appeal, where it appears to a judge or District Judge that an accused person appearing before him should be granted legal aid notwithstanding that the Director refused his application, the judge or District Judge may, subject to paragraph (2), grant him a legal aid certificate, and the Director shall thereupon assign a solicitor and, if the Director thinks fit, 1 or 2 counsel, one of whom may be leading counsel, as the Director thinks fit, to represent the accused person. (L.N. 122 of 1982; L.N. 323 of 1983; 79 of 1995 s. 50)

Rule:	9	Duty of solicitor or counsel assigned		30/06/1997
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It shall be the duty of solicitor or counsel assigned to an accused person under these rules-

- (a) if the accused person is convicted, to give a certificate to the Director as to whether or not in his opinion the accused person has reasonable grounds for an appeal against his conviction or sentence or both and, if so, settling those grounds; and (L.N. 204 of 1984)
- (b) if the accused person proposes to appeal, to give notice of appeal or of an application for leave to appeal and to attend to any matter preliminary thereto.

Rule:	10	Legal aid for appellants		30/06/1997
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Subject to rule 13 in the case of an appellant convicted of a capital charge, in determining an application for legal aid by an appellant the Director shall consider-

- (a) all the circumstances of the case and, in particular, the certificate of counsel assigned to represent him at his trial given under rule 9; and
- (b) the financial resources of the appellant, (L.N. 199 of 1992)

and shall not grant the application unless he is satisfied that legal aid is desirable in the interests of justice.

Rule:	11	Grant of appeal aid certificate		30/06/1997
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- (1) If the Director is satisfied that the appellant should be granted legal aid, the Director shall-
 - (a) grant him an appeal aid certificate; and
 - (b) assign a solicitor and 1 or 2 counsel, one of whom may be leading counsel, or solicitor or counsel only, as he may think fit, to represent him.
- (2) An appeal aid certificate-
 - (a) shall be in such form as the Director may require; and (L.N. 199 of 1992)
 - (b) shall be forwarded by the Director to the appellant with a copy to the appropriate court in Hong Kong and to solicitor or counsel assigned in accordance with these rules. (L.N. 70 of 1973; L.N. 122 of 1982)

Rule:	12	Refusal to grant legal aid to appeal	79 of 1995 s. 50	01/07/1997
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(1A) This rule shall not apply to proceedings relating to an appeal to, or an application for leave to appeal to, the Court of Final Appeal. (L.N. 122 of 1982; 79 of 1995 s. 50)

(1) If the Director is not satisfied that the appellant should be granted legal aid to appeal, the Director shall refuse the application and shall forward to the Registrar a notice of his refusal in such form as he may determine. (L.N. 70 of 1973; L.N. 136 of 1981; L.N. 412 of 1981; L.N. 199 of 1992)

(2) Where the Director is not satisfied that the financial resources of the accused person do not exceed the relevant amount specified in rule 4, the refusal of the application shall be final and may not be disturbed. (L.N. 204 of 1984; L.N. 199 of 1992)

(3) If on an appeal from any conviction, order or determination in respect of or in connection with any offence, it appears to a judge or, in the case of an appeal to the Court of Appeal, to the court or a judge thereof that an appellant should be granted legal aid notwithstanding that the Director refused his application, the judge or the Court of Appeal may, subject to paragraph (2), grant him an appeal aid certificate, and the Director shall thereupon assign a solicitor and 1 or 2 counsel, one of whom may be leading counsel, or solicitor or counsel only, as he may think fit, to represent the appellant. (L.N. 204 of 1984)

Rule:	13	Legal aid in capital cases	79 of 1995	01/07/1997
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- (1) Notwithstanding anything contained in this Part, where a person-
 - (a) is committed for trial upon a charge of murder, treason or piracy with violence;
 - (b) is convicted of a charge of murder, treason or piracy with violence and proposes to appeal therefrom; or
 - (c) wishes to oppose an appeal to, or an application for leave to appeal to, the Court of Final Appeal in proceedings involving a charge of murder, treason or piracy with violence, (L.N. 122 of 1982; 79 of 1995 s. 50)

the Director may, having considered the financial resources of the accused person or appellant, grant him a legal aid

certificate or an appeal aid certificate, as the case may require, and shall do so if his financial resources do not exceed the relevant amounts specified in rule 4. (L.N. 199 of 1992; L.N. 182 of 1993)

(2) The powers of the Director under sub-paragraphs (a) and (b) of paragraph (1) may be exercised by a judge or, in the case of an appeal to the Court of Appeal, by the court or a judge thereof, and the court or judge, if it or he thinks fit, may by order exempt the accused person or appellant from the requirements of Part III. (L.N. 122 of 1982)

(3) Upon granting a legal aid certificate or an appeal aid certificate under this rule, the Court of Appeal, the judge or the Director shall assign a solicitor and 1 or 2 counsel, one of whom may be leading counsel, as it or he may think fit, to represent the accused person or appellant.

Rule:	13A	Power of Director to make inquiries		30/06/1997
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Where an application for legal aid is made under paragraph (h) of rule 4, the Director may, before granting an appeal aid certificate, refer the application for legal aid, or any matter arising out of the application, to any counsel or solicitor to investigate the facts and make a report thereon and to give an opinion thereon or on any question of law arising out of the application for legal aid.

(L.N. 122 of 1982)

Rule:	14	Director may represent aided person		30/06/1997
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The Director may, in lieu of assigning solicitor or counsel to an accused person or appellant under these rules, represent the accused person or appellant.

Rule:	14A	Power to discharge certificates	79 of 1995	01/07/1997
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(1) The Director may, if he is satisfied that it is desirable in the interests of justice, discharge a legal aid certificate or an appeal aid certificate.

(2) Except in proceedings relating to appeals to, or applications for leave to appeal to, the Court of Final Appeal, the powers of the Director under paragraph (1) may be exercised by a judge or District Judge or, in the case of an appeal to the Court of Appeal, by the court or a judge thereof. (L.N. 122 of 1982; 79 of 1995 s. 50)

(L.N. 70 of 1973)

Rule:	14B	Refusal of legal aid in Court of Final Appeal appeals	79 of 1995	01/07/1997
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(1) If the Director is not satisfied that an appellant should be granted legal aid to appeal to, or to apply for leave to appeal to, the Court of Final Appeal, the Director shall refuse the application and inform the appellant in writing of the refusal.

(2) An appellant aggrieved by a decision of the Director under paragraph (1) or his decision to discharge an appeal aid certificate granted in respect of an appeal to, or an application for leave to appeal to, the Court of Final Appeal may bring the decision on review before the committee mentioned in section 26A of the Legal Aid Ordinance (Cap 91) and the provisions of that section shall apply to a review under this rule.

(L.N. 122 of 1982; 79 of 1995 s. 50)

Part:	III	ASSESSMENT OF CONTRIBUTIONS		30/06/1997
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Rule:	15	Assessment of financial resources		30/06/1997
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(1) Subject to paragraph (2) the Director shall assess the financial resources of each applicant for legal aid in accordance with the Legal Aid (Assessment of Resources and Contributions) Regulations (Cap 91 sub. leg. B) as if the applicant were a person applying for legal aid under the Legal Aid Ordinance (Cap 91), and those regulations shall apply accordingly. (L.N. 115 of 1985; L.N. 199 of 1992)

(2) The Director may, if he is satisfied that it is desirable in the interests of justice, grant a legal aid certificate or an appeal aid certificate to an applicant notwithstanding that on an assessment under paragraph (1) he determines that the applicant's financial resources, in the case of legal aid to which section 5 of the Legal Aid Ordinance (Cap 91)

applies, exceed the amount specified in that section. (L.N. 199 of 1992)

Rule:	16	Contributions by aided persons		30/06/1997
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(1) Subject to rule 13, the Director may require an aided person to pay to him a contribution towards the sums payable on his account by the Director.

(2) The amount of any contribution required to be paid under paragraph (1) shall-

(a) be calculated in accordance with Part I of Schedule 3 to the Legal Aid (Assessment of Resources and Contributions) Regulations (Cap 91 sub. leg. B) as if the aided person required to pay the contribution had been granted legal aid under the Legal Aid Ordinance (Cap 91); (L.N. 115 of 1985; L.N. 199 of 1992; L.N. 360 of 1995)

(b) be a debt due to the Director payable in a lump sum or by instalments on such day or within such periods as the Director may determine.

(3) (Repealed L.N. 360 of 1995)

(L.N. 427 of 1982)

Rule:	17	Effect of grant of legal aid		30/06/1997
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On the issue of a legal aid certificate-

(a) counsel or a solicitor retained by or on behalf of the aided person before the issue of the legal aid certificate shall not withdraw from the proceedings without the leave of a judge after the issue of the legal aid certificate;

(b) the Director shall set off the amount received by the counsel or solicitor prior to the issue of the legal aid certificate in assessing the fees payable to the counsel and solicitor.

(L.N. 360 of 1995)

Rule:	18	Excess contributions to be repaid to aided person		30/06/1997
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If the total contribution made by a person in respect of any proceedings is more than the net liability of the Director on his account, the excess shall be repaid to him.

Part:	IV	MISCELLANEOUS		30/06/1997
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Rule:	19	Committing magistrate to inform accused of his right to apply for legal aid		30/06/1997
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(1) (Repealed L.N. 323 of 1983)

(2) Upon transferring a charge or complaint to the District Court under Part IV of the Magistrates Ordinance (Cap 227) the magistrate shall inform the accused person of his right to apply for legal aid. (L.N. 64 of 1978)

Rule:	20	Copies of transcripts		30/06/1997
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Solicitor or counsel assigned to an accused person or to an appellant under these rules shall be entitled upon application to receive free of charge from the appropriate court in Hong Kong a copy of the transcript of the proceedings or of the depositions, including documentary exhibits, if any, in the case.

(L.N. 157 of 1986)

[cf. Cap 221 sub. leg. A r. 5]

Rule:	21	Solicitor and counsel fees	L.N. 228 of 2009	13/11/2009
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(1) The fees payable to a solicitor or counsel assigned under these rules to represent an aided person shall be determined by the Director having regard to the work actually and reasonably done and, subject to this rule, in accordance with the following- (L.N. 414 of 1981; L.N. 115 of 1985)

- (a) to a solicitor assigned under a legal aid certificate in respect of proceedings in the Court of First Instance a fee of \$7350 and additionally if the trial is not concluded on the day on which it started, a daily fee of not less than \$890 and not exceeding \$4780 in respect of the second and every subsequent day; (L.N. 101 of 1991; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; 25 of 1998 s. 2; L.N. 174 of 2003; L.N. 228 of 2009)
- (aa) to a solicitor assigned under an appeal aid certificate in respect of an appeal from the Court of First Instance to the Court of Appeal a fee of \$9920 and additionally if the appeal is not concluded on the day on which it started, a daily fee of not less than \$1240 and not exceeding \$6400 in respect of the second and every subsequent day; (L.N. 101 of 1991; L.N. 119 of 1995; L.N. 235 of 1997; 25 of 1998 s. 2; L.N. 174 of 2003; L.N. 228 of 2009)
- (ab) to a solicitor assigned under an appeal aid certificate in respect of an appeal from the District Court to the Court of Appeal a fee of \$7930 and additionally if the appeal is not concluded on the day on which it started, a daily fee of not less than \$980 and not exceeding \$5150 in respect of the second and every subsequent day; (L.N. 101 of 1991; L.N. 119 of 1995; L.N. 235 of 1997; L.N. 174 of 2003; L.N. 228 of 2009)
- (b) to a solicitor assigned under a legal aid certificate in respect of proceedings in the District Court a fee of \$5240; and additionally, if the trial is not concluded on the day on which it started, a daily fee of not less than \$1250 and not exceeding \$3140 in respect of the second and every subsequent day; (L.N. 70 of 1973; L.N. 289 of 1979; L.N. 83 of 1987; L.N. 87 of 1990; L.N. 101 of 1991; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; L.N. 174 of 2003; L.N. 228 of 2009)
- (c) to a solicitor assigned under a legal aid certificate to act as advocate as well as instructing solicitor in respect of proceedings in the District Court a fee not exceeding \$18190 and additionally if the trial is not concluded on the day on which it started, a daily fee not exceeding \$10080 in respect of the second and every subsequent day; (L.N. 101 of 1991; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; L.N. 174 of 2003; L.N. 228 of 2009)
- (d) to counsel assigned under a legal aid certificate in respect of proceedings in the Court of First Instance a fee not exceeding \$22100 or in the case of Senior Counsel, such fee as appears to the Director to be proper in the circumstances and additionally if the trial is not concluded on the day on which it started, such daily fee not exceeding one half of the fee allowed under this sub-paragraph in respect of the second and every subsequent day as appears to be proper in the circumstances; (L.N. 101 of 1991; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; 94 of 1997 s. 20; 25 of 1998 s. 2; L.N. 174 of 2003; L.N. 228 of 2009)
- (da) to counsel assigned under an appeal aid certificate in respect of an appeal from the Court of First Instance to the Court of Appeal a fee not exceeding \$29460 or in the case of Senior Counsel, such fee as appears to the Director to be proper in the circumstances and additionally if the appeal is not concluded on the day on which it started, such daily fee not exceeding one half of the fee allowed under this sub-paragraph in respect of the second and every subsequent day as appears to be proper in the circumstances; (L.N. 101 of 1991; L.N. 119 of 1995; L.N. 235 of 1997; 94 of 1997 s. 20; 25 of 1998 s. 2; L.N. 174 of 2003; L.N. 228 of 2009)
- (db) to counsel assigned under an appeal aid certificate in respect of an appeal from the District Court to the Court of Appeal a fee not exceeding \$23560 or in the case of Senior Counsel, such fee as appears to the Director to be proper in the circumstances and additionally if the appeal is not concluded on the day on which it started, such daily fee not exceeding one half of the fee allowed under this sub-paragraph as appears to be proper in the circumstances; (L.N. 101 of 1991; L.N. 119 of 1995; L.N. 235 of 1997; 94 of 1997 s. 20; L.N. 174 of 2003; L.N. 228 of 2009)
- (e) to counsel assigned under a legal aid certificate in respect of proceedings in the District Court, a fee not exceeding \$14720 or, in the case of Senior Counsel, such fee as appears to the Director to be proper in the circumstances; and additionally, if the trial is not concluded on the day on which it started, a daily fee not exceeding one half of the fee allowed under this sub-paragraph in respect of the second and every subsequent day as appears to be proper in the circumstances; (L.N. 83 of 1987; L.N. 87 of 1990; L.N. 101 of 1991; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; 94 of 1997 s. 20; L.N. 174 of 2003; L.N. 228 of 2009)
- (f) to Senior Counsel assigned under a legal aid certificate in respect of proceedings in the Court of First Instance, District Court or an appeal aid certificate, fees for such consultations approved by the Director at such hourly rate as appears to the Director to be proper in the circumstances; (94 of 1997 s.

20; 25 of 1998 s. 2)

- (g) to counsel, other than Senior Counsel, assigned under a legal aid certificate in respect of proceedings in the Court of First Instance, or an appeal aid certificate, fees for such conferences approved by the Director at such hourly rate, not exceeding \$1160 per hour, as appears to the Director to be proper in the circumstances; (L.N. 83 of 1987; L.N. 87 of 1990; L.N. 101 of 1991; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; 94 of 1997 s. 20; 25 of 1998 s. 2; L.N. 174 of 2003; L.N. 228 of 2009)
- (h) to counsel, other than Senior Counsel, assigned under a legal aid certificate in respect of proceedings in the District Court, fees for such conferences approved by the Director at such hourly rate, not exceeding \$950 per hour, as appears to the Director to be proper in the circumstances; (L.N. 83 of 1987; L.N. 87 of 1990; L.N. 101 of 1991; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; 94 of 1997 s. 20; L.N. 174 of 2003; L.N. 228 of 2009)
- (i) to counsel and solicitors assigned under an appeal aid certificate in respect of appeals to, or applications for leave to appeal to, the Court of Final Appeal, such fees as appear to the Director to be proper in the circumstances; (L.N. 122 of 1982; 39 of 1999 s. 3)
- (j) (Repealed L.N. 182 of 1993)
- (k) to counsel and solicitors to whom an application or matter has been referred under rule 13A, such fees as appear to the Director to be proper in the circumstances; (L.N. 122 of 1982)
- (l) to counsel or a solicitor assigned under a legal aid certificate to act as advocate in respect of a preliminary inquiry, a fee not exceeding \$8830 and additionally, if the inquiry is not concluded on the day on which it started, a daily fee not exceeding one half of the fee allowed under this sub-paragraph in respect of the second and every subsequent day as appears to be proper in the circumstances; (48 of 1983 s. 5; L.N. 83 of 1987; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; L.N. 174 of 2003; L.N. 228 of 2009)
- (m) to a solicitor assigned under a legal aid certificate to instruct counsel in respect of committal proceedings (including a preliminary inquiry), a fee of \$2390 and additionally, if such proceedings are not concluded on the day on which they started, a daily fee not exceeding \$1960 in respect of the second and every subsequent day as appears to be proper in the circumstances; (48 of 1983 s. 5; L.N. 83 of 1987; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; L.N. 174 of 2003; L.N. 228 of 2009)
- (n) to counsel or a solicitor assigned under a legal aid certificate to act as advocate in committal proceedings otherwise than by way of a preliminary inquiry, a fee not exceeding \$8830 and additionally, if such proceedings are not concluded on the day on which they started, a daily fee not exceeding \$4410 in respect of the second and every subsequent day as appears to be proper in the circumstances; (48 of 1983 s. 5; L.N. 83 of 1987; L.N. 87 of 1990; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; L.N. 174 of 2003; L.N. 228 of 2009)
- (o) to counsel or a solicitor settling a notice of appeal, other than grounds of appeal settled under rule 9(a), such fee not exceeding \$2930 as appears to the Director to be proper in the circumstances; (L.N. 204 of 1984; L.N. 83 of 1987; L.N. 351 of 1992; L.N. 154 of 1994; L.N. 119 of 1995; L.N. 235 of 1997; L.N. 174 of 2003; L.N. 228 of 2009)
- (p) to any lawyer engaged under rule 7(1A), such fees as appear to the Director to be proper in the circumstances. (L.N. 157 of 1986)

(2) If in the opinion of a judge before whom a trial or appeal is heard the case is of exceptional length or complexity, the judge may so certify and thereupon-

- (a) the fee payable to counsel under paragraph (1)(d); and
- (b) the fee payable to a solicitor under paragraph (1)(a),

may be increased by such amount as appears to the Director to be proper in the circumstances, and the daily fee provided for in paragraph (1)(a) or (d), as the case may be, may be increased proportionately. (L.N. 115 of 1985)

(3) If in the opinion of a District Judge before whom a trial is heard the case is of exceptional length or complexity, the judge may so certify and thereupon-

- (a) the fee payable to counsel under paragraph (1)(e) or to a solicitor in respect of his advocacy under paragraph (1)(c); and
- (b) the fee payable to a solicitor under paragraph (1)(b),

may be increased by such amount as appears to the Director to be proper in the circumstances, and the daily fee provided for in paragraph (1)(b), (c) or (e), as the case may be, may be increased proportionately. (L.N. 115 of 1985)

- (4) In addition to the fees payable under paragraph (1), there shall be payable to a solicitor-
- (a) expenses actually and reasonably incurred by himself and his clerk in travelling to or from the court and to and from any place visited for the purpose of preparing or conducting any trial or appeal; and
 - (b) any other out-of-pocket expenses actually and reasonably incurred.
- (5) Where a solicitor or counsel (other than Senior Counsel) represents 2 or more accused persons or 2 or more appellants to whom he has been assigned by the Director and who are tried together or whose appeals are heard together- (94 of 1997 s. 20)
- (a) the fee, including the daily fee, payable to a solicitor under paragraph (1)(a) or (b), may be increased by such amount as appears to the Director to be proper in the circumstances;
 - (b) the fee, including the daily fee, payable to-
 - (i) a solicitor under paragraph (1)(c) in respect of his advocacy;
 - (ii) counsel (other than Senior Counsel) under paragraph (1) (d) or (e), (94 of 1997 s. 20) may be increased by 10% for each additional accused person or appellant so represented up to a maximum of 50% where 6 or more accused persons or appellants are so represented. (L.N. 414 of 1981)
- (6) Where in the Court of First Instance counsel represents 2 or more appellants to whom he has been assigned by the Director and whose appeals are heard on the same day, there shall be payable to counsel, in respect of all the appeals, such fee in accordance with paragraph (1)(d) as appears to the Director to be proper in the circumstances. (L.N. 83 of 1987; L.N. 87 of 1990; 25 of 1998 s. 2)
- (7) A claim for fees shall be submitted to the Director in such form and manner as he shall require. (L.N. 87 of 1990)

Schedule:		SCHEDULE (Repealed L.N. 199 of 1992)		30/06/1997
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