

# Adjustment of rates of allowances for jurors and witnesses and fees payable to OAT adjudicators

The Government gazetted today (March 1) the Allowances to Jurors (Amendment) Order 2019 and the Control of Obscene and Indecent Articles (Amendment) Regulation 2019, made by the Chief Executive in Council on February 12, to increase the rates of allowances for jurors and the fees payable to adjudicators of the Obscene Articles Tribunal (OAT) respectively. The Order and Regulation will be tabled at the Legislative Council (LegCo) on March 20 for negative vetting.

Separately, on February 19, the Criminal Procedure Rules Committee made the Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2019 under section 9B of the Criminal Procedure Ordinance, and the Chief Justice of the Court of Final Appeal made the Coroners (Witnesses' Allowances) (Amendment) Rules 2019 under section 54 of the Coroners Ordinance, to increase the rates of allowances for witnesses in criminal proceedings and coroners' inquests respectively. The Government intends to also seek the approval of the LegCo for these two sets of Rules on March 20.

A Government spokesman said, "The increases in the rates of allowances for jurors and witnesses aim at maintaining their real value to minimise any financial loss suffered by members of the public serving as jurors or testifying as witnesses in courts. The proposed rates of allowances are worked out on the basis of the adjustment mechanism approved by the Finance Committee of the LegCo and refined in 2014.

"For the proposed rates of fees payable to adjudicators of the OAT, reference has been drawn to the ceiling of remuneration for non-official members of boards and committees determined by the Government."

In October 1993, when approving the rates of allowances for jurors and witnesses, the LegCo's Finance Committee approved that future changes in the rates of allowances be made in accordance with the movements of the following adjustment indicators:

- (a) rates for jurors and ordinary witnesses – to be made in accordance with the movements in the general Median Monthly Employment Earnings of Employees (MMEE) in Hong Kong; and
- (b) rates for professional and expert witnesses – to be made in accordance with the changes in the mid-point salary of a Medical and Health Officer in Hong Kong as recorded in the Master Pay Scale of the Civil Service Grades, Ranks and Pay Scales.

Upon consideration of the result of the biennial review conducted by the

Judiciary Administration (JA) in 2014, the basis for determining the rates of jurors' allowances was refined to adopt a stratified MMEE computed on the basis of the composition of employees who fulfil the requirement of being empanelled as jurors (i.e. aged 21 or above and below 65 with an education level of matriculation or above, or equivalent).

On the fees payable to adjudicators of the OAT, in the review conducted by the JA in 2016, it was agreed that as adjudicators come from the general public on a voluntary basis and there is no specific requirement on professional expertise and experience, it would be more appropriate to draw reference to the ceiling of remuneration for non-official members of boards and committees determined by the Government in revising the rates. The proposed rates reflect the Government's latest ceiling for remuneration which came into effect in August 2018.

Subject to the completion of the relevant legislative processes, the revised rates of allowances or fees for jurors, witnesses and OAT adjudicators will take effect on a date to be specified by the Chief Justice of the Court of Final Appeal.

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## **Judicial Officers (Extension of Retirement Age) (Amendment) Bill 2019** **gazetted**

The Government published in the Gazette today (March 1) the Judicial Officers (Extension of Retirement Age) (Amendment) Bill 2019.

The Bill seeks to generally extend the retirement ages of Judges at the High Court and above as well as Magistrates by five years. This is to enable the Judiciary to sustain its judicial manpower across different levels of court, which is crucial to the efficient and effective operation of the Judiciary.

"It is believed that an extension of statutory retirement ages for Judges and Judicial Officers (JJOs) will encourage recruitment of the best legal talents to the Judiciary, as well as help retain for as long as practicable the benefit of the experience and skills of serving JJOs, particularly at the level of the Court of First Instance (CFI) of the High Court given the persistent recruitment difficulties," a Government spokesman said.

More specifically, the Bill mainly seeks to:

- (a) extend the normal retirement ages for Judges of the Court of Final Appeal

as well as the Court of Appeal and the CFI of the High Court from 65 to 70;

(b) extend the normal retirement ages for Members of the Lands Tribunal, Magistrates and other Judicial Officers at the magistrate level from 60 to 65;

(c) provide for other consequential changes, e.g. extending the early retirement age for the relevant categories of JJOs by five years as well; and

(d) provide a mechanism for serving JJOs to opt for the proposed new retirement arrangements.

For District Judges, it is proposed that their normal retirement ages be maintained at 65.

Before formulating the proposals, a consultant was engaged by the Judiciary to conduct a comprehensive study to review the statutory retirement ages for JJOs at all levels of court, including researching into the retirement policies and practices adopted by other common law jurisdictions.

The spokesman said, "It is noted that most of the overseas jurisdictions under research have retirement ages higher than those in Hong Kong. For example, the United Kingdom and New Zealand have a uniform retirement age of 70, while in Australia the retirement age is 70 for the High Court, the Federal Court and the Federal Circuit Court, and 65 for the Family Court at federal court hierarchy.

"Although some of these overseas jurisdictions have a uniform retirement age for Judges at all levels of court, the present two-tier retirement age system is considered more suitable to the circumstances of the Judiciary in Hong Kong and should be retained."

A proposed extension of the normal retirement ages for Judges at the CFI level and above from 65 to 70 will enable the retention of experienced senior Judges, and attract experienced and quality private practitioners to join the Bench.

Setting the retirement age for JJOs below the CFI level at 65 can facilitate the injection of new blood and avoid creating career blockages.

Generally, serving JJOs may exercise the option of joining the new retirement arrangements during an option period of two years, or until their existing normal retirement age/expiry of extension of service, whichever is the earliest.

The Hong Kong Bar Association, the Law Society of Hong Kong and the Panel on Administration of Justice and Legal Services of the Legislative Council (LegCo) were consulted and supported the proposals.

The Bill will be introduced into the LegCo for first reading on March 20 (Wednesday).

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# Appointments to Community Involvement Committee on Greening

The Development Bureau announced today (March 1) the appointment of 17 non-official members to the Community Involvement Committee on Greening (CICG) by the Secretary for Development for a term of two years from March 1, 2019.

Eight incumbent members were re-appointed. The nine new members are Dr Johnnie Chan Chi-kau, Ms Chan Man-kuen, Mr Cheng Ka-ho, Mr Cheung Yung-pong, Dr Jeffrey Hung Oi-shing, Ms Una Lau Yuk-min, Mr Lo Cheuk-man, Dr Angie Ng Ying-sim and Miss Poon Wing-yi.

The Secretary for Development, Mr Michael Wong, said, "The work of the CICG is very important to the promotion of our greening efforts. I would like to express my sincere gratitude to the four outgoing non-official members, Ms Chick Hiu-lai, Mr Alkin Kwong Ching-wai, Ms Dorothy Tang Shun-wai and Ms Wong Kit-lin, for their contributions to the Committee."

The CICG, chaired by the Permanent Secretary for Development (Works), comprises members from different background to identify measures to encourage quality greening and to nurture a culture of tree care through public education and community involvement activities.

The appointments were published in the [Government Gazette](#) today.

The membership of the new term of the CICG is set out below:

## Chairman

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Permanent Secretary for Development (Works)

## Non-official Members

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Dr Johnnie Chan Chi-kau  
Ms Amy Chan May-ho  
Ms Chan Man-kuen  
Mr Cheng Ka-ho  
Dr Samuel Cheng Kin-tak  
Mr Cheung Kwok-kwan  
Mr Cheung Yung-pong  
Dr Jeffrey Hung Oi-shing  
Ms Una Lau Yuk-min  
Mr Christopher Law Kin-chung  
Mrs Miranda Leung Chan Che-ming  
Mr Lo Cheuk-man

Dr Angie Ng Ying-sim  
Miss Poon Wing-yi  
Mr Matthew Sin Kar-wah  
Ms Ann So Lai-chun  
Mr Yiu Vor

#### Official Members

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Secretary for Education or representative  
Director of Agriculture, Fisheries and Conservation or representative  
Director of Civil Engineering and Development or representative  
Director of Environmental Protection or representative  
Director of Home Affairs or representative  
Director of Housing or representative  
Director of Leisure and Cultural Services or representative  
Deputy Secretary (Works)1, Development Bureau

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## Key statistics on service demand of A&E departments and occupancy rates in public hospitals

The following is issued on behalf of the Hospital Authority:

During the winter surge, the Hospital Authority is closely monitoring the service demand of accident and emergency (A&E) departments and the occupancy rate in public hospitals. Key service statistics are being issued daily for public information. Details are in the appended table.

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## Illegal worker jailed

A Vietnamese illegal worker holding a recognisance form was jailed by Shatin Magistrates' Courts yesterday (February 28).

During operation "Twilight" on February 25, Immigration Department (ImmD) investigators raided a restaurant in Tai Wai. A female Vietnamese illegal worker, aged 42, was arrested. When intercepted she was working as a waitress. Upon identity checking, she produced for inspection a recognisance form issued by the ImmD, which prohibits her from taking employment. Further investigation revealed that she was a non-refoulement claimant. An employer

suspected of employing the illegal worker was arrested and the investigation is ongoing.

The illegal worker was charged at Shatin Magistrates' Courts yesterday with taking employment after landing in Hong Kong unlawfully and remaining in Hong Kong without the authority of the Director of Immigration or while being a person in respect of whom a removal order or deportation order was in force. She pleaded guilty to the charge and was sentenced to 15 months' imprisonment. In addition, she was also charged with one count of using a forged Hong Kong identity card and was sentenced to 15 months' imprisonment. All sentences are to run concurrently, making a total of 15 months' imprisonment.

The ImmD spokesman warned that, as stipulated in section 38AA of the Immigration Ordinance, illegal immigrants or people who are the subject of a removal order or a deportation order are prohibited from taking any employment, whether paid or unpaid, or establishing or joining in any business. Offenders are liable upon conviction to a maximum fine of \$50,000 and up to three years' imprisonment. The Court of Appeal has issued a guideline ruling that a sentence of 15 months' imprisonment should be applied in such cases. It is an offence to use or possess a forged Hong Kong identity card or a Hong Kong identity card related to another person. Offenders are liable to prosecution and a maximum penalty of a \$100,000 fine and up to 10 years' imprisonment.

The spokesman reiterated that it is a serious offence to employ people who are not lawfully employable. The maximum penalty is imprisonment for three years and a fine of \$350,000. The High Court has laid down sentencing guidelines that the employer of an illegal worker should be given an immediate custodial sentence. According to the court sentencing, employers must take all practicable steps to determine whether a person is lawfully employable prior to employment. Apart from inspecting a prospective employee's identity card, the employer has the explicit duty to make enquiries regarding the person and ensure that the answers would not cast any reasonable doubt concerning the lawful employability of the person. The court will not accept failure to do so as a defence in proceedings. It is also an offence if an employer fails to inspect the job seeker's valid travel document if the job seeker does not have a Hong Kong permanent identity card. The maximum penalty for failing to inspect such a document is imprisonment for one year and a fine of \$150,000.

Under the existing mechanism, the ImmD will, as a standard procedure, conduct initial screening on vulnerable persons, including illegal workers, illegal immigrants, sex workers and foreign domestic helpers, who are arrested during any operation, with a view to ascertaining whether they are trafficking in persons (TIP) victims. When any TIP indicator is revealed in the initial screening, the officers will conduct a full debriefing and identification by using a standardised checklist to ascertain the presence of TIP elements, such as threat and coercion in the recruitment phase and the nature of exploitation. Identified TIP victims will be provided with various forms of support and assistance, including urgent interference, medical

services, counselling, shelter, temporary accommodation and other supporting services. The ImmD calls on TIP victims to report crimes to the relevant departments.