

**SUBMISSION OF THE HONG KONG BAR ASSOCIATION**  
**ON THE PROPOSED INCREASE OF CRIMINAL LEGAL AID FEES**

1. The Hong Kong Bar Association ("HKBA") welcomes the Government's proposed increase of criminal legal aid fees.
2. The HKBA is gratified that the Government recognises that the disparity between criminal and civil legal aid fees is leading to a situation where the best and brightest of young legal talent at the Bar are forsaking criminal work for civil work. Anecdotal evidence suggests that of all Bar Scholars of 5 years' call or above, only 1 is engaged full time in criminal practice. Nearly all other Bar Scholars are in a civil practice.
3. This has a potentially serious effect on the rule of law in Hong Kong. If the criminal side of the profession cannot attract and retain talent, the quality of legal representation and ultimately the quality of justice in criminal cases will be adversely affected.
4. The proposed increase will go some way to redress the imbalance in fees as between criminal and civil legal aid. The HKBA notes that<sup>1</sup> even after the proposed increase, the hourly rates for counsel appearing before the CFI for criminal legal aid fees (\$2,300) is still substantially less than the rate generally allowed in civil cases litigated in the CFI (\$4,000).
5. It is hoped that in future, the difference between criminal legal aid fee rates and corresponding civil legal aid fees will be further reduced, so that the criminal side of the profession will no longer be perceived as unattractive for young entrants to the profession. There is no reason why those who strive to protect a person's

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<sup>1</sup> on the figures provided by the Home Affairs Bureau

liberty should be accorded less than those who strive to protect a person's property.

6. The HKBA notes that the proposed increases are meant to take into account changes in the CPI(C) on a biennial basis. However, the present increase only takes into account the changes in CPI(C) recorded between July 2012 and July 2014. By the earliest date of the proposed legislative changes in the second quarter of 2016, the CPI(C) levels would be 2 years out of date, and it would be 3½ years since the implementation of the last **biennial** review. The HKBA suggests that the proposed increase should be implemented as soon as possible, and should be drawn in terms so as to commence at least as from the beginning of the coming financial year *ie* 1 April 2016.

**Hong Kong Bar Association**

**19 February 2016**