

# LEGAL AID SYSTEM

## 1. Who can apply for legal aid?

- 1) Individuals (natural persons): Any of the following individuals with insufficient financial capacity can apply for legal aid:
  - a) Macao residents;
  - b) Non-resident workers with identity permits;
  - c) Individuals with recognized refugee status;
  - d) Individuals with special permits to stay in Macao SAR, such as students studying at institutions of higher education.
- 2) Legal persons: Non-profit legal persons (for example association with legal personality) with residence in Macao SAR can apply for legal aid if they have insufficient financial capacity.

## 2. How to define insufficient financial capacity?

If the total amount of available assets of the applicant and family members (for example: spouses, parents, children and in-laws) does not exceed the legal limit of MOP 320,000, the financial capacity will be considered as insufficient.

## 3. How to calculate the amount of available assets?

The amount of available assets is calculated by subtracting the expenses from the total amount of income and assets of the applicant and family members.

### Income

Income earned in Macao SAR and abroad by the applicant and family members within one year from the application date of legal aid, including income from work, pension and income from industrial and commercial activities, immovable properties or financial operations, excluding the cash premium of wealth partaking scheme, subsidies for the senior citizens, elderly pension, disability allowance, subsidy of financial assistance and other non-taxable government allowance.

### Assets

Assets that the applicant and family members possess in Macao SAR and abroad on the application date of legal aid, including immovable properties other than living residence, quotas or shares, vehicles, securities and bank accounts, cash and jewelry exceeding MOP 5,000.

### Expenses

- Fixed expenses:* The amount of annual living expenses of the applicant and family members is fixed and is calculated by multiplying 2.5 times of the minimum subsistence index of the corresponding number of family members by 12.
- Non-fixed expenses:* Expenses exceeding MOP 5,000 which are proved to be necessary in the coming year starting from the application date of legal aid, especially the expenses on education, medical and funeral, but excluding fines, compensation or other expenses due to the fault of the applicant and family members.

## 4. Which type of legal aid can be applied?

Applicant can apply for any or all of the following types of legal aid:

- a) Exemption of advanced payment;
- b) Exemption of litigation fees;
- c) Assign a court legal representative and pay the representation fees.

If the appointment of attorney of the litigation which is to grant legal aid is not required by law (for example: minor civil litigation and civil summary proceedings etc), legal aid does not cover the appointment of a court legal representative and payment of the representation fees, except when the adverse party has appointed attorney.

# LEGAL AID SYSTEM

## 5. What types of litigation can legal aid be applied for?

All judicial litigations that are filed in the court of Macao SAR, including civil litigation (for example: compensation claim and divorce by litigation), administrative litigation and labor litigation can be applied for legal aid, except in the following two situations:

- 1) When civil servants are being sued due to execution of public duties, it will apply to the provisions of Law no. 13/2010 “Legal aid in virtue of execution of public duties”;
- 2) The appointment of attorney and payment of litigation fees in criminal litigations apply to the provisions of “Criminal Procedure Code” and the “Scheme of court fees”. However, auxiliaries or civil parties in criminal litigation can still apply for legal aid.

## 6. In what circumstances will the application of legal aid be declined?

The application of legal aid will be declined regardless of the financial situation in some circumstances, such as:

- 1) If the applicant or family members have transferred assets so as to comply with the requirement of granting legal aid;
- 2) If the required documents, information and the declaration of agreement to investigate the bank account(s) and information on available assets are not submitted to the Legal Aid Commission within the specified period;
- 3) If the litigation claims or reasons are obviously untenable.

## 7. In what situations will legal aid be withdrawn?

Legal aid will be withdrawn in the following situations:

- 1) If the amount of available assets of the applicant and family members exceeds twice the legal limit after re-calculation in the period between the application and the end of legal proceedings;
- 2) If the documents and information that served as the basis for the approval of legal aid are found to be false;
- 3) If the reasons for granting legal aid are proved untenable in the period between the grant of legal aid and the end of legal proceedings;
- 4) If the beneficiary expresses intention of not filing the litigation or not proceeding with the litigation;
- 5) If the beneficiary does not provide the necessary information or collaboration for filing the litigation or facilitating the litigation process to the appointed court legal representative.

## 8. Which authority is responsible for approving the applications?

The Legal Aid Commission is responsible for approving legal aid applications.

## The Legal Aid Commission

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Number of family members	Minimum subsistence index		Fixed expenses
1	4,350.00		130,500.00
2	7,990.00		239,700.00
3	11,020.00		330,600.00
4	13,390.00		401,700.00
5	15,120.00	× 2.5	453,600.00
6	16,850.00	× 12	505,500.00
7	18,580.00		557,400.00
8 or above	20,270.00		608,100.00

## Example:

Mr. Chan and his wife have two children, their total monthly income is MOP 26,000 and their bank balance stands at MOP 200,000. Mr. Chan has a car valued at MOP 20,000 and his wife has MOP 8,000 worth gold and jewelry. They have no other immovable property other than their living residence. If Mr. Chan intends to apply for legal aid, his available assets will be calculated as follows:

(	Income	MOP 26,000 × 12)
+	( Assets	MOP 200,000 + MOP 20,000
		+ MOP 8,000)
-	( Expenses	MOP 13,390 × 2.5 × 12)
=	Available assets	MOP 138,300