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16 May 2003

Mr Edward Chan SC
Chairman
The Hong Kong Bar Association
LG2, High Court
38 Queensway
Hong Kong

Review of the Civil Jurisdictional Limits of the District Court

Thank you for your letter of 30 April 2003.

2. We note that the Bar Association would not oppose to the increase of the jurisdiction of the District Court to HK\$1 million. We would keep the Panel on Administration of Justice and Legal Services of the Legislative Council informed of your position on this matter as requested and subject to any views which the Panel may have, we would proceed to request the Administration to take steps to implement this proposal.

3. The Judiciary has considered the other issues raised in your letter, and would like to set out its responses in the following paragraphs.

(a) Legal Costs in Litigating in the High Court and the District Court

4. Your comments on the statistics on legal costs are noted. It should be clarified that the statistics in respect of the High Court and the District Court in table 5.3 of the paper on the captioned review are based on different cases in different periods. These statistics have been derived from available data within the Judiciary and have been compiled for reference only. They illustrate litigation costs are in general lower for cases tried in the District Court.

5. An important consideration for costs at the District Court level is proportionality. This consideration is reflected in Order 62, Rule 32(1A) of the Rules of the District Court (Cap. 336H) (which has been taken from its predecessor Rule 11 of the District Court Civil Procedure (Costs) Rules). Under this rule, the costs allowed on taxation for cases tried in the District Court should not exceed two thirds of the amount which would have been allowed for such a case had it been tried in the High Court. The established scales of costs reflect the principle that the costs in cases falling within the District Court should be kept proportional to the amount at stake. This is one of the factors explaining the lower litigation costs for cases tried in the District Court.

6. It is also important to bear in mind the discretion of the taxing masters in taxation. No doubt the experience of solicitors *vis-à-vis* the complexity of individual cases will be taken into account.

(b) Quality of Judges Hearing Civil Cases in the District Court

7. We would like to reiterate that the Judiciary places heavy emphasis on developing the civil expertise of the District Court. In the recruitment of District Court Judges last November, the Judiciary specified in the recruitment advertisement that preference would be given to candidates with substantial experience in civil matters. During the past few years, many District Judges who have deputised in the Court of First Instance and gained extensive civil experience have returned to the District Court while others are given acting opportunities. In addition, the Judicial Studies Board has continued to organize relevant seminars for District Judges and Deputy District Judges.

8. The Judiciary is confident that it has an adequate pool of judges with civil experience to cope with the proposed increase in the civil jurisdictional limits of the District Court.

(c) Leave for Appeal for District Court Cases

9. As you are well aware, procedural reforms in the context of appeals in the High Court are being considered by the Working Party on Civil Justice Reform. The Judiciary is of the view that issues in relation to appeals in the District Court should not be addressed separately for the time being. We

would await the outcome of the review in the context of the Civil Justice Reform and would then consider how to take the matter further from there.

Yours sincerely,

(Miss Emma Lau)
for Judiciary Administrator

c.c. Clerk of the Panel on Administration of Justice and Legal Services