

**Paper for the Panel on
Administration of Justice and Legal Services (AJLS)**

Review of the Civil Jurisdictional Limits of the District Court

Purpose

This paper informs Members of the comments of the two legal professional bodies on the Judiciary's proposal to increase the civil jurisdictional limits of the District Court to \$1 million, and the Judiciary's responses to these comments.

Background

2. At the AJLS Panel meeting on 31 March 2003, Members noted that the Bar Association and the Law Society had been invited to give their views on the Judiciary's proposal to increase the civil jurisdictional limits of the District Court to \$1 million and requested the Judiciary to keep Members informed of the comments of the two legal professional bodies.

Comments on the Judiciary's Proposal from the Two Legal Professional Bodies

3. The Law Society of Hong Kong has stated in its letter of 26 April 2003 that it supports the Judiciary's proposal to increase the civil jurisdictional limits of the District Court to HK\$1 million. A copy of the Law Society's response is at Annex A.

Annex A

4. The Hong Kong Bar Association has indicated in its letter of 30 April 2003 that it would not oppose the proposal. A copy of the Bar Association response is at Annex B.

Annex B

Other Issues

5. Apart from commenting on the proposal to increase the civil jurisdictional limits of the District Court, the two legal professional bodies have raised other related issues. The Judiciary has already responded to the two professional bodies on these issues. These issues and the Judiciary's responses to them are set out below.

Solicitor's Costs

6. The Law Society has raised for discussion the possibility of introducing a sliding scale for legal costs in the District Court given the increase in the jurisdictional limits to dovetail with the fees awarded in the High Court. It has suggested that in cases involving claims of a monetary value, a higher charge-out rate could be claimed/permitted. In claims for damages, where the amount awarded may ultimately be low (but still involve a significant amount of work) or where the amount of the claim is more difficult to calculate, the judge could certify at trial which band the costs should fall in.

7. The Judiciary has considered the Law Society's suggestion regarding solicitor's cost and taken the view that there is no need for the introduction of a sliding scale of costs at this point in time. The reasons are as follows:-

- (a) 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 a case tried in the District Court should not exceed two thirds of the amount which would have been allowed on taxation had such a case been tried in the High Court. The established scales of costs reflect the principle that the costs in cases falling within the District Court jurisdiction should be kept proportional to the amount at stake. This consideration should continue to apply with the increase in the civil jurisdictional limits of the District Court to HK\$1 million.
- (b) One of the objectives of the proposed increase in the civil jurisdictional limits of the District Court to HK\$1 million is to further enhance access to justice for the benefit of the litigants by bringing litigation costs within the means of a greater section of the public. As borne out by statistics available, litigation costs in the District Court under the established scale of costs are about one-third lower than those in the High Court. To be consistent with the objective of enhancing access to justice, the established scales of costs pursuant to Order 62, Rule 32(1A) of the Rules of the District Court should continue to be applied across the board

upon the increase of the civil jurisdictional limits of the District Court to \$1 million.

- (c) Based on the experience of our Judges and Masters, it is anticipated that the civil cases which are now tried in the High Court but will in future be heard in the District Court upon the implementation of the new jurisdictional limits should generally not be very complicated as to warrant a review of the well-established scales of costs under the existing Rules of the District Court.

Legal Costs in Litigating in the High Court and the District Court

8. The Bar Association has expressed some doubt on whether the statistics on legal costs as set out in table 5.3 of the paper on the Review of the Civil Jurisdiction of the District Court accurately reflects the discrepancy in the legal costs in litigating in the High Court and in the District Court for the same case. We have clarified that the statistics on legal costs as set out in table 5.3 of the Review paper 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.

9. We have also explained to the Bar Association that the existing scales of costs under the Rules of the District Court (Cap. 336H) (see para. 7(a) above) 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.

10. We have also explained to the Bar Association that it is also important to bear in mind the discretion of the taxing masters in taxation, and that the experience of solicitors *vis-à-vis* the complexity of individual cases will be taken into account.

Quality of Judges Hearing Civil Cases in the District Court

11. The Bar Association has expressed concern about the quality of Judges hearing civil cases in the District Court. We have reiterated 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.

12. 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.

Leave for Appeal for District Court Cases

13. The Bar Association has also offered comments on the appeal procedures for District Court cases vis-à-vis those for the High Court, and made suggestions on this matter. We have told the Bar Association that as 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.

Briefing for the Civil Court Users' Committee

14. In addition, Members may wish to note that the Civil Court User's Committee, which has been set up by the Chief Justice to advise the Judiciary on matters of concern to court users in civil proceedings, was briefed on the proposed increase in the civil jurisdiction of the District Court at its meeting on 29 April 2003. The Committee was content with the proposal.

Way Forward

15. Subject to any further views Members may have on the proposal, the Judiciary intends to inform the Administration of the outcome of our consultation with this Panel, the two legal professional bodies and the Civil Court User' Committee, and request the Administration to take steps to implement the proposal.

16. As the time for consultation has taken longer than expected, it is expected that the new civil jurisdictional limits of the District Court may take effect on 1 December 2003, subject to the approval of the Legislative Council.

Judiciary Administration
May 2003