

For discussion on
19 January 1999

**Panel on Administration of Justice and Legal Services of
the Legislative Council**

**Financial Jurisdiction Limits of
the Small Claims Tribunal and District Court**

Purpose

This note sets out our proposals to increase the financial jurisdiction limits of the Small Claims Tribunal and the District Court.

Background

2. We have been preparing legislative amendments to improve the operations of the Small Claims Tribunal and District Court under the Small Claims Tribunal and District Court Ordinances with a view to introducing them into the Legislative Council in the current session. The Ordinances deal to some extent with the question of proceedings against the Crown or the Government which should ideally be rationalised and modernised at the same time. However, the question needs to be resolved within the overall context of the adaptation of the Crown Proceedings Ordinance (Cap. 300).

3. As Members will know, the adaptation of provisions throughout the statute book that relate to Crown proceedings is being deferred until Cap. 300 is adapted. With regard to the Small Claims Tribunal Ordinance and District Court Ordinance, the Administration has two options -

- (a) we could proceed now with the proposed increase to the financial jurisdiction limits but leave unamended the provisions relating to proceedings against the Crown or Government; or
- (b) we could defer the amendments until after Cap. 300 has been adapted.

4. The Administration considers that it would be in the public interest, and consistent with its policy in respect of the adaptation of laws

programme, for it to adopt the first option. Nevertheless, we welcome the views of Members of the Panel. If Members support the adoption of the first option, the Administration will seek to introduce the legislative amendments in the second half of the present legislative session, to increase the financial limits of the Small Claims Tribunal and the District Court.

Small Claims Tribunal

5. The Small Claims Tribunal was set up in 1976 to provide an expeditious, informal and inexpensive means of adjudication for civil disputes. Taking into account the types of claims which would be heard in it, the financial jurisdiction limit of the Tribunal was set at \$3,000 then. The limit has been increased several times throughout the past years on the basis of inflation and the costs that a plaintiff would have to incur if the cases were heard in the District Court. The current limit is \$15,000.

6. We propose to increase the financial jurisdiction limit to \$35,000 to take into account inflation since the last update and the type of cases being dealt with by the Tribunal. In anticipation of the likely increase in workload arising from such increase, we have secured via the 1996 Resource Allocation Exercise additional resources for Judiciary. We consider that the increase is appropriate to allow more cases to be heard in the Tribunal while retaining the informality of its proceedings. Based on the most recent data, we expect that about 7,000 cases will be transferred from the District Court to the Small Claims Tribunal per year.

7. The Law Society proposed in 1996 that the limit be increased to \$50,000 which would be "a realistic assessment of the general public's purchasing power given the economy's expansion since 1988". While we believe that the inflation factor we used as the basis to our proposal has already served to maintain the real value of the limit, we do welcome views from Members of this Panel on the proposed limit.

District Court

8. A District Court (Amendment) Bill was introduced into the former Legislative Council in November 1996, but subsequently lapsed. We now propose increasing the financial jurisdiction of District Court as follows -

- (a) general civil jurisdiction: from \$120,000 to \$300,000;
- (b) jurisdiction of recovery of land: from a rateable value of \$100,000 to \$500,000;

- (c) jurisdiction where title of land is in question: from a rateable value of \$100,000 to \$500,000; and
- (d) jurisdiction for "action for personal injuries": \$600,000.

These increases have taken into account inflation and property value changes since the time when the limit was last reviewed in 1988 and will help to relieve the pressure on Court of First Instance. The proposed jurisdiction for "action for personal injuries" was set with an objective to allow simple personal injuries cases to be heard in the District Court. We expect that about 4,800 cases will move from the Court of First Instance to the District Court per year as a result of this amendment.

9. The Law Society proposed in 1996 that the limits should be set at \$2,000,000 for personal injuries claims and \$1,000,000 for all other claims. In a meeting of the then LegCo Panel on Administration of Justice and Legal Services in July 1996, representatives of the Society explained that the proposed level was to offset the effect of inflation since these limits were last reviewed eight years ago, and to take into account of future inflation rate for another eight years' time. While we agree that we should increase the jurisdiction to take into account inflation since the last review, we believe that we should regularly update the jurisdiction limits rather than factor the expected rate of inflation into the figures. In the comments provided to us in 1996, the Bar Association indicated that the proposed limits were either about right or too high. We welcome any comments that Members may have on this issue. In deciding the final proposal, we would have to consider carefully the consequential resource implications for the Judiciary.

10. We appreciate that our proposed jurisdiction figures for Small Claims Tribunal and District Court may look low compared to those recommended by the Law Society. However, they are nevertheless more than two times the existing level. The estimated increase in caseloads quoted above is based on the existing number of cases in the Court of First Instance and the District Court which fall into the proposed range of jurisdictions. There will likely be "hidden demand" i.e. cases which would otherwise not be filed but for the lower costs of bringing litigation in the District Court and Small Claims Tribunal. The judiciary system will need time to adjust to the new levels to ensure continued smooth operation. We will in the future more regularly update the jurisdiction limits of various levels of courts. Section 6 of the Small Claims Tribunal Ordinance and section 73A of the District Court Ordinance provide for adjustment to the limits by way of a resolution of the Legislative Council, allowing us to efficiently amend the jurisdiction limit.

Way Forward

11. We shall take a view on whether to proceed with the proposed increase in financial jurisdiction after listening to the view of Members. If the decision is to proceed, we shall consult Members again on the details of the proposed amendments.

Administration Wing
Chief Secretary for Administration's Office
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