

## **LEGISLATIVE COUNCIL BRIEF**

### **DISTRICT COURT (AMENDMENT) BILL 1999**

#### **INTRODUCTION**

At the meeting of the Executive Council on 28 September 1999, the Council ADVISED and the Chief Executive ORDERED that the District Court (Amendment) Bill 1999 should be introduced into the Legislative Council.

#### **BACKGROUND AND ARGUMENT**

2. In October 1991, the then Chief Justice appointed a Working Party under the chairmanship of the then Honourable Mr Justice Kempster to consider, and recommend amendments to, the terms of the District Court Ordinance, the District Court Civil Procedure (General) Rules and the District Court Civil Procedure (Forms) Rules. The Working Party submitted its report to the Chief Justice in June 1993. Major recommendations of the Working Party included –

- (a) encouraging a greater flow of civil work directly into the District Court, thereby relieving pressure on, and delay in, the then High Court;
- (b) raising the financial limits for jurisdiction of various proceedings to levels which reflect the rate of inflation since the financial

limits were last reviewed in 1988 (the jurisdictional limits for different kinds of cases recommended in the Kempster Report are set out in Annex A);

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- A
- (c) introducing a definition of “action for personal injuries”;
  - (d) improving the definition of the role, functions and power of the Registrar of the District Court, and providing for the protection of the Registrar;
  - (e) enabling the transfer to the District Court of cases inappropriately commenced in the then High Court; and
  - (f) providing a procedural framework in the District Court more akin to that of the then Supreme Court by revising the District Court Civil Procedure (General) Rules and the District Court Civil Procedure (Forms) Rules on the basis of the then Rules of the Supreme Court.

3. The then Chief Justice accepted the Working Party's recommendations in August 1993. Implementation of the recommendations required extensive amendments to the Ordinance and a complete revision of the Civil Procedure Rules of the District Court. The District Court (Amendment) Bill 1996 was introduced into the then Legislative Council in November 1996. However, the Bill lapsed at the end of that legislative session as the then Legislative Council did not have enough time to scrutinise the Bill.

### **General Jurisdiction**

4 We have since revisited the financial jurisdictional limits having regard to inflation and other factors. Our objective is also to lower the cost of

litigation to enhance access to the judicial system. The Chief Justice agrees with this objective and the direction in increasing the financial jurisdictional limits of the District Court.

5. Following the increase in the jurisdictional limit of the Small Claims Tribunal from \$15,000 to 50,000, about 10,000 less complex cases will be transferred from the District Court to the Small Claims Tribunal, thereby enabling the District Court to handle more cases. The Judiciary has considered critically how the operation of the District Court may be improved so that further increase in the latter's financial jurisdictional limits might be possible. The Judiciary considers that by streamlining the procedures for dealing with simple non-contentious cases in the District Court and by internal redeployment of resources, the District Court would be able to cope with an increase of the general jurisdictional limit to \$600,000, without affecting the service in terms of court waiting time for cases to be heard. The Chief Justice has also asked a working group to examine possible procedural changes having regard to modern trends and judicial practices, and legislative changes considered necessary will be introduced in the context of the revision of the District Court civil procedural rules.

6. The Judiciary will complete a review in two years' time for the following purpose:

- (a) reviewing the impact on demand for court services from the current proposal;
- (b) assessing pattern in cost of litigation;
- (c) assessing the resource implications on the Judiciary in the light of actual increase in caseload;

- (d) recruiting and developing qualified judges and judicial officers to cope with likely increases in caseload and maintain quality.

It is our intention to further increase the general jurisdictional limit to \$1 million in two years' time, subject to the result of Judiciary's review.

### **Limits in Respect of Land and Title to Land**

7. The Judiciary has taken the opportunity to examine further the financial limits of jurisdiction concerning title to and recovery of land (s.35 and s.36 of the Ordinance). The Kempster Report recommended a rateable value of \$500,000 as the jurisdictional limit for these two types of cases. Having regard to the fact that the property yield has come down significantly from the time when the last review of the relevant limits were conducted, i.e. from 8% in 1988 to 4% at present, the Judiciary believes that the original limit recommended in the Kempster Report would today cover properties with capital value of well over \$10 million. The Judiciary considers this change objectionable because –

- (i) nearly all property cases would henceforth be handled in the District Court and the workload would be overwhelming; and
- (ii) more fundamentally, adopting such a limit would mean that the District Court would virtually be the only court in Hong Kong dealing with property disputes, apart from those matters which fall within the jurisdiction of the Lands Tribunal, thereby having primary (first instance) responsibility for developing jurisprudence in this important area.

The Judiciary therefore recommends that the limits for cases on recovery of and title to land be adjusted to a rateable value of \$240,000, which would cover

properties with a capital value of about \$6 million, instead of \$500,000 recommended by the Kempster Report.

### **Equity Jurisdiction**

8. In line with the proposed increase for the general financial jurisdiction, we propose that the limits for equity jurisdiction, where land is not involved, be raised accordingly to \$600,000. With regard to the equity jurisdiction where land is involved, we consider that the proposed figure in the Kempster Report, which is \$1 million, could not realistically reflect the present day value of properties in Hong Kong. We propose that the equity jurisdiction where land is involved be raised to \$3 million.

### **THE BILL**

9. The main provisions of the Bill are as follows -

- (a) Various financial limits of the civil jurisdiction of the District Court are raised to enable more civil cases to be heard in the District Court. Relevant provisions include revising –
  - (i) the civil jurisdiction of the District Court from \$120,000 to \$600,000 (clause 20);
  - (ii) the jurisdiction of recovery of land from a rateable value of \$100,000 to \$240,000 (clause 22);
  - (iii) the jurisdiction where title of land is in question from a rateable value of \$100,000 to \$240,000 (clause 22); and
  - (iv) equity jurisdiction from \$120,000 to \$600,000 or

\$3,000,000 where land is involved (clause 22).

- (b) Clause 3 provides for new definitions of “action for personal injuries” and “personal injuries” and sets a financial limit of \$600,000.
- (c) Clauses 3, 6, 32, 34 and 39 define the role, functions and power of the Registrar of the District Court and adds a section on the protection of the Registrar; and
- (d) Clause 22 provides for the transfer to the District Court of cases inappropriately commenced in the Court of First Instance and vice versa.
- (e) revising the section on evidence upon the commencement of the Evidence (Amendment) Ordinance in June 1999 (Clause 40)

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**B**

A copy of the Bill is at Annex B.

**LEGISLATIVE TIMETABLE**

10. The legislative timetable is as follows -

Publication in the Gazette	30 September 1999
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First Reading and commencement of Second Reading debate	13 October 1999
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Resumption of Second Reading debate, committee stage and Third Reading	To be notified
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## **HUMAN RIGHTS IMPLICATIONS**

11. The Department of Justice advises that the proposed Bill is consistent with the human rights provisions of the Basic Law.

## **BINDING EFFECT**

12. The amendments do not affect the current binding effect of the District Court Ordinance.

## **FINANCIAL AND STAFFING IMPLICATIONS**

13. The Judiciary expects that about 17,000 additional cases will be brought before the District Court annually as a result of the increase in financial jurisdiction limit to \$600,000. In addition, the Judiciary expects that there would be some “hidden demand” arising from people who would otherwise not proceed with litigation may choose to do so in the light of the lower litigation cost involved in proceedings before the District Court.

14. Additional resources have been provided to the Judiciary to create three judicial posts and 14 non-judicial posts at an annual staff cost of \$13.1 million to handle additional workload arising from the previously proposed financial jurisdictional limit of \$300,000. This has not taken into account additional workload arising from the newly proposed increase in the financial jurisdictional limits to \$600,000 although the increase in workload will be partly offset by the transfer of about 10,000 less complex cases per annum from the District Court to the Small Claims Tribunal, following an increase in the financial jurisdiction of the latter from \$15,000 to \$50,000. The Judiciary will absorb the additional workload arising from the newly

proposed increase in limits from within its global allocation.

15. The Judiciary will complete a review of financial limits in two years' time along the lines in paragraph 6 above. Additional resources required will be considered at the time in the normal manner, in the light of competing priorities.

## **PUBLIC CONSULTATION**

16. We consulted the LegCo Panel on Administration of Justice and Legal Services (AJLS Panel) on the increase in financial jurisdiction limits recommended by the Kempster Working Party in January 1999. We also informed the AJLS Panel that we were considering further increase of the financial jurisdictional limits of the District Court at its meeting held on 27 May. The Panel has urged that the District Court (Amendment) Bill be introduced into LegCo as soon as possible.

## **PUBLICITY**

17. A press release will be issued on 29 September 1999. A spokesman will be available to handle media enquiries.

## **ENQUIRIES**

18. For enquiries on the brief, please contact Ms Rosanna Law, Assistant Director of Administration at 2810 2576.

Administration Wing

Chief Secretary for Administration's Office

September 1999

**LEGISLATIVE COUNCIL BRIEF**

**DISTRICT COURT (AMENDMENT) BILL 1999**

ANNEX A

The financial jurisdictional limits proposed in the Kempster reports

ANNEX B

District Court (Amendment) Bill

**District Court Jurisdiction Limits as proposed in the Kempster Report**

	\$	\$	
General	250,000		
Personal injury	500,000		
Recovery of land (rateable value)	500,000		
Title in question (rateable value)	500,000		
Equity jurisdiction			
Deceased's estate (capital value)	250,000	or	1,000,000 (if land is involved)
Trust (capital value)	250,000	or	1,000,000 (if land is involved)
Mortgage, charge or lien (capital value)	250,000	or	1,000,000 (if land is involved)
Sale, purchase, lease of property (capital value)	250,000	or	1,000,000 (if land is involved)
Property of an infant (capital value)	250,000	or	1,000,000 (if land is involved)
Asset of partnership (capital value)	250,000	or	1,000,000 (if land is involved)
Relief against fraud (capital value)	250,000	or	1,000,000 (if land is involved)

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A BILL

TO

Amend the District Court Ordinance.

Enacted by the Legislative Council.

**1. Short title and commencement**

- (1) This Ordinance may be cited as the District Court (Amendment) Ordinance 1999.
- (2) This Ordinance shall come into operation on a day to be appointed by the Chief Secretary for Administration by notice in the Gazette.

**2. Long title amended**

The long title to the District Court Ordinance (Cap. 336) is amended by repealing “of Hong Kong”.

**3. Interpretation**

Section 2 is amended -

- (a) by repealing the definition “Registrar” and substituting -

““Registrar” (司法常務官) means the Registrar of the Court appointed under section 14 and includes a deputy registrar and assistant registrar appointed under that section;”;

- (b) by adding -

““action for personal injuries” (人身傷害訴訟) means an action in which the plaintiff includes a claim for damages for personal injuries to himself or to any other person or for damages

for a person's death;

“authorized institution” (認可機構) means an authorized institution within the meaning of section 2 of the Banking Ordinance (Cap. 155);

“charging order” (押記令) means an order under section 52A(1) to secure payment of a judgment or an order for the payment of money;

“judgment creditor” (判定債權人) means a person in whose favour judgment has been entered or an order made in any court requiring a judgment debtor to pay money to the person;

“judgment debtor” (判定債務人) means a person against whom judgment has been entered or an order made in any court requiring him to pay money to another person;

“personal injuries” (人身傷害) includes any disease or any impairment of a person's physical or mental condition;”.

#### **4. Establishment of the District Court, and its general jurisdiction**

Section 3(1) is repealed and the following substituted -

“(1)A court known as the District Court is established.”.

#### **5. Constitution of the District Court**

(1) Section 4(3) is amended by repealing the proviso.

(2) Section 4 is amended by adding -

“(4)This section does not authorize the discharge of any judicial functions by any person before the date of the instrument of appointment or before the requirements of section 17 of the Oaths

and Declarations Ordinance (Cap. 11) have been fulfilled.”.

## **6. Disposal of proceedings**

(1) Section 6(1) is repealed and the following substituted -

“(1)A judge sitting alone shall, subject to section 58 and to the rules, hear and dispose of proceedings in the Court and business arising out of the proceedings.”.

(2) Section 6(2) is amended by adding “or Registrar” after “judge”.

(3) Section 6(3) is repealed and the following substituted -

“(3)The business of the Court shall be heard and disposed of in court unless this Ordinance, the rules of court or another enactment authorizes the matter to be heard and disposed of in chambers.”.

## **7. Sections substituted**

Sections 7 and 8 are repealed and the following substituted -

### **“7. Appointment of deputy District Judges**

(1) The Chief Justice may appoint a person, who is eligible to be appointed to be a judge, to be a deputy District Judge if -

(a) the office of any judge becomes vacant for any reason; or

(b) he considers that the interests of the administration of justice require that a deputy District Judge should be appointed temporarily.

(2) A deputy District Judge shall have and may exercise all the jurisdiction, powers and privileges and perform all the duties of a judge. A reference in any law to a deputy District Judge shall be construed accordingly.

- (3) Without restricting the Chief Justice's power under subsection (1), the Chief Justice may appoint a deputy District Judge -
- (a) for a specified case or class of cases only;
  - (b) for a specified period only.
- (4) The Chief Justice may terminate the appointment of a deputy District Judge at any time.

## **8. Power of deputy District Judge**

### **in part-heard cases**

A deputy District Judge may resume the hearing and determine any adjourned proceedings and to deliver judgment even if the period of his appointment as a deputy District Judge has expired or his appointment has been terminated by the Chief Justice.”.

## **8. Section substituted**

Section 13 is repealed and the following substituted -

### **“13. Seal of the Court**

- (1) The Court shall use such seal as the Chief Justice directs.
- (2) All writs, judgments, orders, documents and copies issued by the Court shall be sealed with the seal.
- (3) A writ, judgment, order, document or copy purporting to be sealed with the seal of the Court is admissible in any court on its production without further proof.”.

## **9. Officers of the Court**

- (1) Section 14(1) is repealed and the following substituted -
- “(1)The Chief Executive may appoint a registrar of the Court and such number of deputy registrars, assistant registrars, chief

judicial clerks and bailiffs as he may think fit; and there may be attached to such court such number of clerks of the Court, clerks, interpreters and other officers as the Chief Executive may consider necessary.”.

(2) Section 14(4) is repealed and the following substituted -

“(4) It shall be lawful, in relation to the business and proceedings of the Court, for the Registrar of the High Court and every deputy registrar, temporary deputy registrar, assistant registrar, temporary assistant registrar and bailiff attached to the High Court to exercise any power or discharge any duty which such Registrar, deputy registrar, temporary deputy registrar, assistant registrar, temporary assistant registrar or bailiff might respectively have exercised or discharged under subsections (2) and (3) of this section if he had been appointed or attached to the Court under subsection (1) of this section.”.

(3) Section 14(5) is amended by repealing “(Cap. 4),” and substituting “(Cap. 4)”.

## **10. Right of audience**

(1) Section 15(1) is amended by repealing the proviso.

(2) Section 15 is amended by adding -

“(1A) The right of a solicitor to address the Court is not excluded by reason only of the fact that he is in the permanent and exclusive employment of any other solicitor.”.

(3) Section 15(2) is amended by repealing the proviso.

(4) Section 15 is amended by adding -

“(2A) The right of a barrister to appear or to act in the Court or of a solicitor to recover costs for the employment of a barrister to appear or to act is not affected by anything in this Ordinance.”.

## **11. Committal for contempt**

Section 20(ii) is amended by repealing “not exceeding \$5,000”.

## **12. Section substituted**

Section 23 is repealed and the following substituted -

### **“23. Enforcement of fines and forfeited recognizances**

(1) The Court may enforce a fine imposed, or a recognizance forfeited, by it in the same manner as a judgment for the payment of money.

(2) The Court shall certify to the Registrar the sum payable if a fine or recognizance is not paid in full when it is due and the Registrar shall enforce the payment of the sum certified as a judgment debt due to the Court.

(3) In this section, “fine” (罰款) includes a penalty imposed in civil proceedings and payable to the Court.”.

## **13. Registrar to take charge of fees, etc.**

Section 25(c) is repealed and the following substituted -

“(c) all fines so imposed.”.

## **14. Officer illegally demanding fees**

Section 26 is amended -

- (a) by repealing “Any Officer” and substituting “An officer”;
- (b) in paragraph (a), by repealing “of \$2,000” and substituting “at level 6”.

**15. Falsely pretending to act under**

**authority of the Court**

Section 27 (i) is amended by repealing “of \$2,000” and substituting “at level 6”.

**16. Falsely representing documents to have**

**been issued from the Court**

Section 28 is amended by repealing “of \$5,000” and substituting “at level 5”.

**17. Rescuing goods**

Section 29 is amended by repealing everything after “liable -” and substituting -

- “(a) on summary conviction to a fine at level 5 and to imprisonment for 12 months;
- or
- “(b) on conviction on indictment to imprisonment for 2 years.”.

**18. Assaulting officers**

Section 30 is amended by repealing everything after “liable -” and substituting -

- “(a) on summary conviction to a fine at level 5 and to imprisonment for 12 months;
- or
- “(b) on conviction on indictment to imprisonment for 2 years.”.

**19. Revocation of committal order**

Section 31 is amended by repealing”, 21, 23, 29 or 30” and substituting “or 23”.

**20. Section substituted**

Section 32 is repealed and the following substituted -

**“32. General jurisdiction in actions of contract, quasi-contract and tort**

(1) The Court has jurisdiction to hear and determine any action founded on contract, quasi-contract or tort, not being an action for personal injuries, where the amount of the plaintiff's claim does not exceed \$600,000.

(2) The Court has jurisdiction to hear and determine any action for personal injuries, where the amount of the plaintiff's claim does not exceed \$600,000.

(3) In this section and in section 34, the amount of the plaintiff's claim means the amount the plaintiff claims after taking into account -

- (a) any set-off or any debt or demand the defendant claims or may recover from the plaintiff; and
- (b) any contributory negligence,

that the plaintiff admits.

(4) The Court has jurisdiction to hear and determine any proceedings by way of interpleader in which the amount or value of the matter in dispute does not exceed \$600,000.”.

**21. Money recoverable by enactment**

(1) Section 33(1) is amended by repealing “shall have” and substituting “has”.

(2) Section 33(1)(b) is amended by repealing “\$120,000” and substituting “\$600,000”.

(3) Section 33(2) is amended by repealing “shall” and substituting “does”.

**22. Sections substituted**

(1) The heading “**Counterclaims, Transfer of Proceedings and**

**Miscellaneous Provisions as to Jurisdiction” before section 38 is repealed.**

(2) Sections 34, 35, 36, 37, 37A, 38, 39, 40, 41, 42, 43 and 44 are repealed and the following substituted -

**“34. Abandonment of part of claim  
to give Court jurisdiction**

(1) The Court has jurisdiction to hear and determine an action that is in excess of the Court’s monetary jurisdiction limit on the plaintiff abandoning the amount of the plaintiff’s claim in excess and the action is one in which the Court otherwise has jurisdiction.

(2) The Court Cannot award to the plaintiff in an action under this section an amount exceeding the Court’s monetary jurisdiction limit for the action.

(3) The judgment of the Court in an action limited under this section is in full discharge of all demands in the cause of action.

**35. Jurisdiction for recovery of land**

The Court has jurisdiction to hear and determine any action for the recovery of land where the rateable value of the land determined under the Rating Ordinance (Cap. 116) does not exceed \$240,000.

**36. Jurisdiction where title in question**

The Court has jurisdiction to hear and determine any action which would otherwise be within the jurisdiction of the Court and in which the title to an interest in land comes into question if -

- (a) for an easement or licence, the rateable value of the land, over which the easement or licence is claimed, determined under the Rating Ordinance

(Cap. 116) does not exceed \$240,000; or

- (b) for any other case, the rateable value of the land determined under the Rating Ordinance (Cap. 116) does not exceed \$240,000.

### **37. Equity jurisdiction**

(1) Subject to the maximum limits in amount or value set out in subsection (2), the Court has the jurisdiction of the Court of First Instance to hear and determine the following proceedings -

- (a) proceedings relating to or for the administration of the estate of a deceased person;
- (b) proceedings for the execution of a trust or for the declaration that a trust subsists or proceedings under section 3 of the Variation of Trusts Ordinance (Cap. 253);
- (c) proceedings for the foreclosure or redemption of a mortgage or for enforcing a charge or lien;
- (d) proceedings for the specific performance, or for the rectification, rescission or delivery up or cancellation of an agreement for the sale, purchase or lease of property;
- (e) proceedings for the maintenance or advancement of an infant;
- (f) proceedings for the dissolution or winding up of a partnership, whether or not the existence of the partnership is in dispute;
- (g) proceedings for relief against fraud or mistake.

(2) The maximum limits in amount or value referred to in subsection (1)

for -

- (a) in the case of subsection (1)(a), an estate of a

deceased person;

- (b) in the case of subsection (1)(b), an estate or fund subject or alleged to be subject to the trust;
- (c) in the case of subsection (1)(c), the amount owing under the mortgage, charge or lien;
- (d) in the case of subsection (1)(d), for an agreement for sale or purchase, the purchase money or, for an agreement for lease, the value of the property;
- (e) in the case of subsection (1)(e), the property of the infant;
- (f) in the case of subsection (1)(f), the assets of the partnership;
- (g) in the case of subsection (1)(g), the damage sustained or the estate or fund for which relief is sought,

are -

- (i) \$600,000, where the proceedings do not involve or relate to land;
- (ii) \$600,000, where the proceedings partly involve or partly relate to land and the part that does not so involve or does not so relate exceeds \$600,000 in amount or value;
- (iii) \$3,000,000, where the proceedings wholly involve or wholly relate to land;
- (iv) \$3,000,000, where the proceedings partly involve or partly relate to land and the part that does not so involve or does not so relate does not exceed \$600,000 in amount or value.

(3) A judge has in proceedings authorized by this section in addition to his other powers and authority the powers and

authorities of a judge of the Court of First Instance acting in the exercise of the equitable jurisdiction of the Court of First Instance.

(4) Nothing in this section gives jurisdiction to the Court in proceedings for the recovery of land or relating to the title to land, where the rateable value, determined in accordance with the Rating Ordinance (Cap. 116), of the land exceeds \$240,000.

### **38. Jurisdiction under the Married Persons Status Ordinance**

The Court has the jurisdiction and powers of the Court of First Instance conferred by section 6 of the Married Persons Status Ordinance (Cap. 182).

### **39. Agreements as to jurisdiction**

(1) The Court has jurisdiction to hear and determine an action or proceeding mentioned in section 32, 33, 35, 36 or 37(1)(c), (d) or (f) without regarding the monetary limits specified if all the parties to the action or proceeding agree for the Court to have jurisdiction in the action or proceeding by a memorandum signed by them or by their respective legal representatives. The references in this Ordinance to the jurisdiction of the Court for any action or proceeding are to be construed as including references to jurisdiction conferred by agreement.

(2) A memorandum under this section may be entered into at any time. The action or proceeding is taken to have been within the jurisdiction of the Court from its commencement if the agreement is entered into after the action or proceeding commenced.

(3) The consent or conduct of a party shall not confer

jurisdiction on the Court except as permitted by this section.

**40. Counterclaims**

In sections 32 to 37 and 39, references to an action or proceeding are to be construed as including references to a counterclaim.

**41. Saving**

This Part does not affect the provisions of the Small Claims Tribunal Ordinance (Cap. 338), the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) or the Labour Tribunal Ordinance (Cap. 25) or any other Ordinance conferring exclusive jurisdiction on a court or tribunal other than the Court.

**Transfer of Proceedings and Miscellaneous**

**Provisions as to Jurisdiction**

**42. Procedure where proceedings beyond the jurisdiction of the Court are commenced in the Court**

(1) The Court shall, either of its own motion or on the application of any party, order that an action or proceeding be transferred to the Court of First Instance where an action or proceeding commenced in the Court, not being a counterclaim, is outside the jurisdiction of the Court but is within the jurisdiction of the Court of First Instance.

(2) The Court may, if it thinks fit, instead of ordering that the action or proceeding be transferred, order that it be struck out where, on the application of a defendant, it appears to the Court that the plaintiff or, if more than one, one of the plaintiffs knew or ought to have known that the Court had no jurisdiction.

(3) If a defendant in an action or proceeding within the jurisdiction of the Court makes a counterclaim which is not within the jurisdiction of the Court but within the jurisdiction of the Court of First Instance, the Court may, either of its own motion or on the application of any party, order -

- (a) that the whole proceedings be transferred to the Court of First Instance; or
- (b) that the proceedings on the counterclaim be transferred to the Court of First Instance; and the proceedings on the plaintiff's claim, except for a defence of set-off as to the whole or a part of the subject-matter of the counterclaim, be heard and determined by the Court.

**43. Transfer to the Court of First Instance of proceedings within the jurisdiction of the Court**

The Court may, either of its own motion or on the application of any party (whether or not the party has entered into a jurisdiction agreement under section 39), order the transfer to the Court of First Instance of all or part of any action or proceeding within the jurisdiction of the Court.

**44. Transfer to the Court from the Court of First Instance of proceedings within the jurisdiction of the Court**

(1) The Court of First Instance may, either of its own motion or on the application of any party, order the transfer to the Court of all or part of an action or proceeding, other than a counterclaim, which appears to the Court of First Instance likely to be within the jurisdiction of the Court.

(2) An order may be made under this section at any stage of

the proceedings of the motion of the Court of First Instance itself or on the application of any party.

(3) The Court of First Instance is required to make an order under this section unless it is of the opinion that, by reason of the importance or complexity of any issue arising in the action or proceeding, or for any other reason, the action or proceeding ought to remain in the Court of First Instance.

**44A. Transfer to the Court from the Court of First Instance where the parties consent**

(1) The Court of First Instance may, if the parties consent, order the transfer to the Court of all or part of an action or proceeding, including a counterclaim, which is outside the jurisdiction of the Court, but would have been within its jurisdiction except for the monetary limits specified in section 32, 33, 35, 36 or 37.

(2) An order may be made under this section at any stage of the proceedings.

(3) The Court of First Instance is required to make an order under this section unless it is of the opinion that, by reason of the importance or complexity of any issue arising in the action or proceeding, or for any other reason, the action or proceeding ought to remain in the Court of First Instance.

**44B. Costs in transferred cases, etc.**

- (1) This section applies to an action or proceeding transferred -
- (a) from the Court of First Instance to the Court;
  - (b) from the Court to the Court of First Instance; or
  - (c) from a tribunal to the Court.

(2) The court or tribunal that orders the transfer may make an order for costs prior to the transfer and of the transfer of proceedings.

(3) The costs of the whole proceedings both before and after the transfer are in the discretion of the court to which the proceedings are transferred subject to any order made by the court or tribunal which ordered the transfer.

(4) The court to which the proceedings are transferred has power to order costs and order the scales on which the costs of the several parts of the proceedings are to be taxed. The costs of the whole proceedings are to be taxed in the court to which the proceedings are transferred.

(5) In an action founded on contract, quasi-contract or tort, for the proceedings in the Court of First Instance before the transfer, the Court may, if satisfied that there was sufficient reason for bringing the action in the Court of First Instance and subject to any order of the Court of First Instance, allow costs on the Court of First Instance scale.

(6) Where proceedings in which the Court has jurisdiction are brought in the Court of First Instance, the Court shall order costs on the scale and in the amount as if the proceedings had been brought in the Court, unless the proceedings were brought by leave of the Court of First Instance or unless the Court of First Instance otherwise orders.”.

### **23. Sections substituted**

(1) The heading “Exercise of Jurisdiction and Ancillary Jurisdiction” before section 48 is repealed.

(2) Sections 47, 48, 49, 50 and 51 are repealed and the following substituted -

## **“Discovery and Related Procedures**

### **47A. Power of the Court to order disclosure, etc.**

#### **of documents before commencement of proceedings**

(1) A person who appears to the Court to be likely to be a party to subsequent proceedings for personal injuries or arising out of the death of a person may apply to the Court for an order for discovery of documents against a person who is likely to be a party to the proceedings and who has in his possession, custody or power documents relevant to an issue arising out of the claim.

(2) The application is to be made in accordance with rules of court.

(3) The Court may order the person, if it appears to it that the person is likely to have or to have had in his possession, custody or power any relevant documents -

- (a) to disclose whether those documents are in his possession, custody or power; and
- (b) to produce the documents in his possession, custody or power to the applicant or, on the conditions specified in the order -
  - (i) to the applicant's legal advisers;
  - (ii) to the applicant's legal advisers and a medical or other professional adviser of the applicant; or
  - (iii) if the applicant has no legal adviser, to a medical or other professional adviser of the applicant.

**47B. Extension of powers of the Court to order disclosure of documents, inspection of property, etc.**

(1) A party to proceedings in an action, in which a claim for personal injuries or arising out of the death of a person is made, may apply to the Court in accordance with rules of court for an order for discovery of documents against a person who is not a party to the proceedings and who is likely to have or to have had in his possession, custody or power documents relevant to an issue arising out of the claim.

(2) The Court may order the person, if it appears to it that the person is likely to have or to have had in his possession, custody or power any relevant documents -

- (a) to disclose whether those documents are in his possession, custody or power; and
- (b) to produce the documents in his possession, custody or power to the applicant or, on the conditions specified in the order -
  - (i) to the applicant's legal advisers;
  - (ii) to the applicant's legal advisers and a medical or other professional adviser of the applicant; or
  - (iii) if the applicant has no legal adviser, to a medical or other professional adviser of the applicant.

(3) A party to proceedings in an action, in which a claim for personal injuries or arising out of the death of a person is made, may apply to the Court for an order against a person who is not a party to the proceedings for, and the Court may order -

- (a) the inspection, photographing, preservation, custody and detention of property which is not the

property of, or in the possession of, a party to the proceedings but which is the subject-matter of the proceedings or as to which any question arises in the proceedings;

- (b) the taking of samples of the property mentioned in paragraph (a) and the carrying out of any experiment on or with the property.

(4) An application under this section is to be made in accordance with rules of court.

(5) The powers in this section are in addition to the power of the Court to make orders which is exercisable apart from this section.

(6) In this section “property” (財產) includes any land, chattel or other physical property of any description.

#### **47C. Provisions supplementary to sections 47A and 47B**

(1) The power to make rules of court includes power to make rules of court as to the circumstances in which an order under section 47A or 47B can be made.

(2) Rules may include the incidental, supplementary and consequential provisions which the Rules Committee may consider necessary or expedient.

(3) The Court shall award costs of and incidental to the proceedings to the person against whom an order is sought under sections 47A and 47B unless the Court otherwise directs.

#### **47D. Powers of the Court exercisable before commencement of action**

(1) A person authorized by the rules may, in proceedings in an action, in which a claim for personal injuries or arising out

of the death of a person is made, apply to the Court for an order for and the Court may order -

- (a) the inspection, photographing, preservation, custody and detention of property which may become the subject-matter of the proceedings or as to which any question may arise in the proceedings;
- (b) the taking of samples of the property mentioned in paragraph (a) and the carrying out of any experiment on or with the property.

(2) An application under this section is to be made in accordance with rules of court.

(3) Rules may be made to include -

- (a) the manner in which an application for an order can be made and by whom;
- (b) the circumstances in which an order can be made; and
- (c) the incidental, supplementary and consequential provisions which the Rules Committee may consider necessary or expedient.

(4) In this section “property” (財產) includes any land, chattel or other physical property of any description.

#### **47E. Application to Government of sections 47A to 47D**

(1) Section 47D binds the Government so far as it relates to property (within the meaning of that section) which appears to the Court to be likely to become the subject-matter of subsequent proceedings for personal injuries or arising out of the death of a person.

(2) Sections 47A, 47B and 47C bind the Government.

(3) The Court shall not make an order under section 47A, 47B or 47D if it considers that compliance with an order would be likely to be injurious to the public interest.

### **Exercise of Jurisdiction and Ancillary Jurisdiction**

#### **48. General ancillary jurisdiction**

(1) The Court has the same power as the Court of First Instance in any proceedings before it -

- (a) to grant the relief, redress, or remedy or combination of remedies, either absolute or conditional; and
- (b) subject to section 46, to give effect to every ground of defence or counterclaim, equitable or legal,

Which ought to be granted or given.

(2) The Court has to administer law and equity so that, if there is a conflict or variance between the rules of equity and the rules of the common law referring to the same matter, the rules of equity prevail.

(3) The Court has to give the same effect as in the past -

- (a) to equitable estates, titles, rights, relieves, defences and counterclaims, and to equitable duties and liabilities; and
- (b) subject to paragraph (a), to legal claims and demands and estates, titles, rights, duties, obligations, and liabilities existing by the common law or by any custom or created by an Ordinance.

(4) The Court has to exercise its jurisdiction to secure that, as far as possible, all matters in dispute between the parties are completely and finally determined, and multiplicity of legal proceedings on any of those matters is avoided.

(5) The Court may stay any proceedings before it, where it thinks fit to do so, either of its own motion or on the application of any person, whether or not a party to the proceedings.

**48A. Power to award damages as well as,  
or in substitution for, injunction or  
specific performance**

The Court may award damages in addition to or in substitution for an injunction or specific performance where it has jurisdiction to entertain an application for an injunction or specific performance.

**48B. Contempt of Court**

A judge has the powers of a judge of the Court of First Instance to -

- (a) punish for disobedience of a judgment or order of the Court; or
- (b) punish for breach of undertaking; or
- (c) discipline or punish for breach of a duty imposed upon a solicitor by rules of court.

**49. Interest on claims for debt and damages**

(1) The Court may include simple interest, at the rate the Court thinks fit in a judgment for a debt or damages, on the debt or damages or on a payment made before judgment, for the period between the date when the cause of action arose and

-

- (a) for a sum paid before judgment, the date of the

payment; and

- (b) for the sum for which judgment is given, the date of the judgment.

(2) Rules of court may provide for the rate of interest and the method of calculation.

(3) In a judgment given for damages for personal injuries or death which exceed \$30,000, the Court has, unless the Court is satisfied that there are special reasons to the contrary, to include simple interest at the rate the Court thinks fit on -

- (a) payment made before judgment, for the period between the date when the cause of action arose and the date of the payment; and
- (b) any other sum for which judgment is given, for the period between the date when the cause of action arose and the date of the judgment.

(4) The defendant in proceedings for the recovery of a debt who pays the whole debt to the plaintiff (otherwise than in pursuance of a judgment in the proceedings) is liable to pay the plaintiff interest at the rate the Court thinks fit or rules of court provide on the debt for the period between the date when the cause of action arose and the date of the payment.

(5) The Court cannot award interest on a debt under this section for a period during which, for whatever reason, interest on the debt already runs.

(6) Interest under this section may be calculated at different rates for different periods.

(7) In determining, for the purposes of section 32, 33, 36 or 37, whether an amount exceeds or is less than the amount specified in those sections, the Court cannot take account of any interest that may be ordered under this section or of any order

for interest made under this section.

(8) This section does not affect the damages recoverable for the dishonour of a bill of exchange.

(9) In this section -

“defendant” (被告人) means the person from whom the plaintiff seeks the debt or damages;

“plaintiff” (原告人) means the person seeking the debt or damages.

## **50. Interest on judgments**

(1) Judgment debts are to carry simple interest -

- (a) at the rate the Court orders; or
- (b) in the absence of an order, at the rate the Chief Justice determines by order,

on the total amount of the judgment debt, or on the part that for the time being remains unpaid, from the date of the judgment until payment.

(2) Interest under this section may be calculated at different rates for different periods.”.

## **24. Extension of jurisdiction to grant injunctions**

### **and to make declarations**

(1) Section 52(1)(a) and (d) is amended by repealing “\$120,000” and substituting “\$600,000”.

(2) Section 52(1)(c) is amended by repealing “\$100,000” and substituting “\$240,000”.

(3) Section 52(2)(b) is amended by repealing “sections 48 and 51” and substituting “section 48”.

## **25. Sections substituted**

Sections 52A, 52B and 52C are repealed and the following

substituted -

**“52A. Power of Court to impose charging order**

(1) The Court may by order impose a charge for securing the payment of any money due or to become due under a judgment or order of the Court on a judgment debtor's property specified in the order.

(2) In deciding whether to make a charging order the Court has to consider all the circumstances of the case and, in particular, any evidence before it as to -

- (a) the personal circumstances of the debtor; and
- (b) whether any other creditor of the debtor would be likely to be unduly prejudiced by the making of the order.

(3) This section applies to a judgment, order, decree or award however called of any court or arbitrator, including a court of justice outside of Hong Kong or arbitrator outside of Hong Kong, which is or has become enforceable, whether wholly or to a limited extent, as it applies to a judgment or order of the Court.

**52AA. Property which may be charged**

(1) Subject to section 25 (which provides that a writ of execution shall not issue against any partnership property except on a judgment against the firm) of the Partnership Ordinance (Cap. 38), a charge may be imposed by a charging order under this Ordinance only on -

- (a) an interest held by the judgment debtor beneficially -
  - (i) in an asset of a kind mentioned in subsection (2); or
  - (ii) under a trust; or
- (b) an interest held by a person as trustee of a trust

(in this paragraph referred to as “the trust”), if the interest is in an asset of a kind mentioned in subsection (2) or is an interest under another trust and -

- (i) the judgment or order for which a charge is to be imposed was made against the person as trustee of the trust;
- (ii) the whole beneficial interest under the trust is held by the judgment debtor unencumbered and for his own benefit; or
- (iii) 2 or more judgment debtors are all liable to the judgment creditor for the same debt and together hold the whole beneficial interest under the trust unencumbered and for their own benefit.

(2) The assets referred to in subsection (1) are -

- (a) land;
- (b) securities of any of the following kinds -
  - (i) Government stock;
  - (ii) stock of any body incorporated in Hong Kong;
  - (iii) stock of any body incorporated outside Hong Kong or of any state or territory outside Hong Kong, being stock registered in a register kept in Hong Kong;
  - (iv) units of a unit trust for which a register of the unit holders is kept in Hong Kong;
- (c) funds in court.

(3) The Court may extend a charge to any interest, dividend or other distribution payable and any bonus issue in respect of the asset where the charging order is over an interest in an asset other than land.

(4) In this section -

“dividend” (股息) includes a distribution for any unit of a unit trust;

“stock” (證券) includes shares, debentures, loan stocks, funds, bonds, notes, any other securities issued by the body concerned, whether or not constituting a charge on the assets of the body and any rights or options to subscribe for or be allotted any of them;

“unit trust” (單位信託) means a trust established to provide for persons having funds to invest, facilities for them to participate as beneficiaries under the trust in the profits or income arising from acquiring, holding, managing or disposing of property.

#### **52AB. Provisions supplementary to sections 52A and 52B**

(1) A charging order may be made either absolutely or subject to conditions as to notifying the judgment debtor or as to the time when the charge is to become enforceable, or as to other matters.

(2) The Land Registration Ordinance (Cap. 128) applies to charging orders as it applies to other orders or writs issued or made to enforce judgments.

(3) A charge imposed by a charging order has the same effect and is enforceable in the same courts and in the same manner as an equitable charge created by the judgment debtor by writing under his hand.

(4) The Court may at any time, on the application of the judgment debtor or of any person interested in any property to which the order relates, make an order discharging or varying the charging order.

(5) The Land Registrar shall, on the filing with him of a memorial and an office copy of an order under subsection (4) discharging a charging order registered under the Land Registration Ordinance (Cap. 128), enter a discharge of the charging order on the register. The Land Registrar may issue certificates of the entry.

## **52B. Injunction and receivers**

(1) The Court may by order (whether interlocutory or final) grant an injunction or appoint a receiver in any action or proceedings in the Court and within its jurisdiction in which the Court considers it just or convenient so to do.

(2) The order may be made either unconditionally or on the terms and conditions the Court thinks just.

(3) The Court may grant an interlocutory injunction restraining a party to any proceedings from removing from the jurisdiction of the Court, or otherwise dealing with, assets located within the jurisdiction whether the party is or is not domiciled, resident or present within the jurisdiction.

(4) The Court may, on an application made at any time before, at or after the hearing of an action or proceedings, grant an injunction to prevent any threatened or apprehended waste or trespass whether -

(a) the person against whom the injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does

not claim a right to do the act sought to be restrained under any colour of title; and

- (b) the estates claimed by both or by either of the parties are legal or equitable.

(5) The Court may appoint a receiver by way of equitable execution in relation to all legal estates and interests in land. The Court may exercise the power to appoint a receiver -

- (a) in relation to an estate or interest in land whether or not a charge has been imposed on that land under section 52A to enforce the judgment, order, decree or award in question; and
- (b) in addition to, and not in derogation of, any power of any court to appoint a receiver in proceedings for enforcing a charge.

(6) Where an order under section 52A imposing a charge to enforce a judgment, order, decree or award has been registered under section 2 of the Land Registration Ordinance (Cap. 128), section 3(2) of that Ordinance does not apply to an order appointing a receiver made either -

- (a) in proceedings to enforce the charge; or
- (b) by way of equitable execution of the judgment, order, decree or award or of so much of it as required payment of moneys secured by the charge.

## **52C. Attachment of debts**

(1) A sum standing to the credit of a person in a deposit account of an authorized institution is deemed to be a sum due to the person for the purposes of jurisdiction of the Court to attach debts to satisfy judgments or orders for the payment of money.

(2) Subject to rules of court, the sum in the deposit account

of an authorized institution is attachable even if any of the following conditions applicable to the account has not been satisfied-

- (a) that notice is required before any money is withdrawn;
- (b) that a personal application must be made before any money is withdrawn;
- (c) that a deposit book must be produced before any money is withdrawn;
- (d) that a receipt for money deposited must be produced before any money is withdrawn; or
- (e) any other condition prescribed by rules of court.”.

## **26. Prohibition on debtor leaving Hong Kong**

- (1) Section 52E (8)(a)(i) is amended by repealing “the Rules of the High Court (Cap. 4 sub. leg.)” and substituting “rules of court”.
- (2) Section 52E(10) is amended by repealing “prescribed in the Rules of the High Court (Cap. 4 sub. leg.)” and substituting “set by the Chief Justice”.

## **27. Sections added**

The following are added -

### **“53. Review of orders made in the absence of parties**

- (1) A judge or Registrar may review an order made in the absence of the parties if the party seeking a review of the order applies within 28 days of the issue of the order.
- (2) The judge or Registrar may proceed to review the order made at any time, including after the expiry of the period limited for application, if the application is made within time.
- (3) The judge or Registrar may take into account fresh

evidence and oral submissions in considering the application and in reviewing the order.

(4) Notice to a party is only required if the party was served with the papers relating to the original application.

(5) The exercise of the power to review does not operate -

- (a) as a bar to appeal by any party to the proceedings against the order as reviewed; or
- (b) as a stay of the order unless the judge or Registrar otherwise orders on review.

(6) The judge or Registrar may impose conditions and make an order as to costs on reviewing an order as he thinks fit.

(7) The judge or Registrar may exercise the power to review in proceedings under the jurisdiction conferred by any other enactment unless the other enactment specifically otherwise provides.

### **53A. Costs**

(1) The costs of and incidental to all proceedings in the Court, including the administration of estates and trusts, are in the discretion of the Court, and the Court has full power to determine by whom and to what extent the costs are to be paid.

(2) Subject to specific provision made in this or any other Ordinance (other than subsidiary legislation made under this or any other Ordinance), subsection (1) does not authorize an award of costs against a person who is not a party to the relevant proceedings.”.

### **28. Sections repealed**

Sections 54, 55, 56 and 57 are repealed.

## **29. Assessors**

- (1) Section 58(2) is amended by repealing the proviso.
- (2) Section 58 is amended by adding -

“(3) This section does not authorize the payment of remuneration to a person employed full time in any office of emolument of the Government.”.

## **30. Sections substituted**

Section 59 is repealed and the following substituted -

### **“59. Examination of witnesses outside the jurisdiction of the Court**

(1) The Court of First Instance has the same power to issue a commission, request or order to examine witnesses outside the jurisdiction of the Court for the purpose of proceedings in the Court as it has for the purpose of a cause or matter in the Court of First Instance.

(2) The Court of First Instance may order that the proceedings be transferred to the Court of First Instance where an application is made to examine witnesses outside the jurisdiction of the Court.

### **59A. Production of documents to other courts. etc.**

(1) The Registry of the Court may produce a document filed with it, or in its custody to any court or tribunal (including an umpire or arbitrator) sitting elsewhere than at the Court.

(2) It is not necessary for any officer, whether served with a subpoena in that behalf or not, to attend to produce the document.

(3) The document may be produced to the court or tribunal by sending it to the court or tribunal, in the manner prescribed in the rules, together with a certificate that the document has

been filed in, or is in the custody of, the Registry.

(4) The certificate is evidence of the facts stated in it.”.

**31. Proceedings not to be set aside  
for want of form**

Section 61 is repealed.

**32. Section substituted**

Section 63 is repealed and the following substituted -

**“63. Appeal to Court of Appeal**

(1) An appeal can be made to the Court of Appeal from every judgment, order or decision of a judge or Registrar in any civil cause or matter.

(2) An appeal is subject to rules of court.

(3) A person against whom an order is made pursuant to section 20, 29, 48B or 52D is entitled to appeal to the Court of Appeal without leave.”.

**33. Penalty for neglect of witness summons**

(1) Section 66A(1) is amended -

- (a) by repealing “not exceeding \$5,000”;
- (b) by repealing the proviso.

(2) Section 66A is amended by adding -

“(1A) The Court cannot punish, under subsection (1)(a), a person summoned as a witness unless he has been paid or has had tendered to him at the time of service of the summons a reasonable sum for expenses, including in prescribed cases, compensation for loss of time.”.

#### **34. Section added**

The following is added -

##### **“66B. Witness expenses**

In any proceedings in the Court, a judge or the Registrar may order the reimbursement of a witness for any expenses reasonably and properly incurred by the witness.”.

#### **35. Levy on goods, etc. in first instance**

Section 67 is repealed.

#### **36. Sections added**

The following are added -

##### **“68A. Effect of writs of execution against goods**

(1) A writ of fieri facias or other writ of execution against goods issued from the Court binds the property in the goods of the execution debtor from the time when the writ to be executed is delivered to the bailiff.

(2) A writ of execution does not prejudice the title to any goods of the execution debtor acquired by a person in good faith and for valuable consideration unless the person had, at the time when he acquired his title, notice that the writ or any other writ under which the goods of the execution debtor might be seized or attached had been delivered to and remained unexecuted in the hands of the bailiff.

(3) The bailiff (without fee) on receipt of any writ of execution must endorse on its back the hour, day, month and year when he received it so that the time mentioned in subsection (1) can be determined.

(4) In this section and in section 68B -

- (a) “property” (產權、財產) means the general property in goods, and not merely a special property;
- (b) “bailiff” (執達主任) includes any officer charged with the enforcement of a writ of execution;
- (c) any reference to the goods of the execution debtor is deemed a reference to property liable to attachment and sale in execution of a judgment;
- (d) an act is treated as done in good faith if it is in fact done honestly, whether it is done negligently or not.

#### **68B. Sale of property in execution of judgment**

- (1) The property of the judgment debtor is liable to attachment and sale in execution of a judgment other than -
  - (a) shares in the capital or joint stock of any private company within the meaning of section 29 of the Companies Ordinance (Cap. 32);
  - (b) subject to paragraph (c), the tools (if any) of the trade of the judgment debtor; and
  - (c) the necessary wearing apparel and bedding of the judgment debtor and his family dependent on and residing with him, to a value, inclusive of tools and apparel and bedding, not exceeding \$10,000.
- (2) Subject to subsection (5), the purchaser of any goods that were seized from an execution debtor by the bailiff charged with the enforcement of a writ of execution and sold by the bailiff without any claim having been made to them acquires a good title to the goods.
- (3) A person is not entitled to recover against the bailiff, or anyone lawfully acting under his authority for any sale of the

goods or for paying over the proceeds prior to the receipt of a claim to the goods -

- (a) except as provided by section 46 of the Bankruptcy Ordinance (Cap. 6); or
  - (b) unless it is proved that the person from whom recovery is sought had notice or might by making reasonable inquiry have ascertained that the goods were not the property of the execution debtor.
- (4) This section does not affect the right of any claimant who may prove that at the time of sale he had title to any goods so seized and sold to any remedy to which he may be entitled against any person other than the bailiff or purchaser.

(5) The Court may, subject to rules of court, set aside the sale of any immovable property in execution of a judgment on the ground of material irregularity in the conduct of the sale.”.

### **37. Sections substituted**

Section 69 is repealed and the following substituted -

#### **“69. Relief against forfeiture by action**

##### **for non-payment of rent**

(1) This section has effect where a lessor is proceeding by action in the Court to enforce against a lessee a right of reentry or forfeiture of any land for non-payment of rent.

(2) The action ceases if the lessee pays into court all the rent in arrear and the costs of the action within the time prescribed by rules of court for acknowledging service of the writ. The lessee holds the land according to the lease without any new lease.

(3) The Court is to order that the lessor be given possession of the land on the expiry of a period, not being less than 4 weeks

from the date of the order, as the Court thinks fit if the Court at the trial is satisfied that the lessor is entitled to enforce the right of re-entry or forfeiture.

(4) An order for possession lapses if the lessee pays into court all the rent in arrear and the sum the Court directs on account of the costs of the action before the date ordered for possession. The lessee holds the land according to the lease without any new lease.

(5) The Court may extend the period specified in the order for possession at any time before possession of the land is recovered under the order. Subsection (7) does not affect the power of the Court under this subsection.

(6) An action, order or writ for possession does not lapse on payment into court under this section if the lessor is proceeding in the same action-

- (a) to enforce a right of re-entry or forfeiture on any other ground as well as for non-payment of rent; or
- (b) to enforce any other claim as well as the right of re-entry or forfeiture and the claim for arrears of rent.

(7) The order for possession may be enforced if the lessee does not within the period allowed under the order pay into court all the rent in arrear and the sum directed to be paid on account of the costs of the action. So long as the order remains unreversed the lessee is barred from all relief.

(8) The Court is to suspend a writ for the possession of the land for the extended period if the Court extends the period under an order before possession can be taken after that period has expired. If, before the expiry of the extended period, the lessee

pays into court all the rent in arrear and the sum directed to be paid on account of the costs of the action, the Court is to cancel the writ.

(9) This section does not affect -

- (a) the power of the Court to enter final judgment where the defendant fails to give notice of intention to defend;
- (b) the power of the Court to make any order which it would otherwise have power to make as respects a right of re-entry or forfeiture on any ground other than non-payment of rent; or
- (c) section 58(4) of the Conveyancing and Property Ordinance (Cap. 219).

#### **69A. Service of writ in lieu of demand**

The service of the writ in the action in the prescribed manner in a case where section 69 has effect stands in lieu of a demand and re-entry, if -

- (a) one-half-year's rent is in arrear at the time of the commencement of the action;
- (b) the lessor has a right of re-entry for non-payment of that rent; and
- (c) insufficient distress has been found on the premises to secure the arrears then due.

#### **69B. Relief against forfeiture by re-entry for non-payment of rent**

(1) This section has effect where a lessor has enforced against a lessee, by re-entry without action, a right of re-entry or forfeiture as respects any land for non-payment of rent, where

the rateable value of the land, determined in accordance with the provisions of the Rating Ordinance (Cap. 116), does not exceed \$240,000.

(2) The lessee may, at any time within 6 months from the date on which the lessor re-entered, apply to the Court for relief, and on any such application the Court may grant to the lessee such relief as the Court of First Instance could have granted.

**69C. Interpretation and application of this section and sections 69, 69A and 69B**

- (1) In this section and sections 69, 69A and 69B -
- “lease” (租契) includes -
- (a) an original or derivative under-lease; and
  - (b) an agreement for a lease where the lessee has become entitled to have his lease granted;
- “lessee” (承租人) includes -
- (a) an original or derivative under-lessee; and (b) the persons deriving title under a lessee;
- “lessor” (出租人) includes -
- (a) an original or derivative under-lessor; and
  - (b) the persons deriving title under a lessor;
- “trial” (審訊) includes the hearing of an application for summary judgment;
- “under-lease” (分租租契) includes an agreement for an under-lease where the under-lessee has become entitled to have his under-lease granted;
- “under-lessee” (承轉租人) includes any person deriving title under an under-lessee.
- (2) Section 69 or 69B does not affect the provisions of the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap.

126).”.

### **38. Section substituted**

Section 70 is repealed and the following substituted -

#### **“70.      Solicitors**

A solicitor admitted to practise in the High Court is an officer of the Court and subject to its jurisdiction to the same extent as in the Court of First Instance.”.

### **39. Sections added**

The following are added -

#### **“71A.    Registrar may apply for an order**

- (1) The Registrar may apply summarily to the Court for an order for the direction of a bailiff in a difficult or doubtful case.
- (2) The Court may order as it considers just and reasonable in the matter.

#### **71B.    Protection of the Registrar**

A person cannot bring an action against the Registrar for -

- (a) an act done or omitted to be done by a bailiff in accordance with directions given by the Registrar; or
- (b) a direction given to a bailiff about the execution or non-execution of process if the direction is under an order of the Court and the Registrar has not wilfully misrepresented or suppressed a material fact.”.

## **40. Sections substituted**

Sections 72 and 73 are repealed and the following substituted -

### **“72. Rules of court**

(1) The Rules Committee may make rules of court regulating and prescribing -

- (a) the procedure, including the method of pleading in the Court;
- (b) the practice to be followed in the Court;
- (c) the procedure and practice to be followed in the Registry of the Court; and
- (d) any matters incidental to the procedure or practice.

(2) Without limiting the general nature of subsection (1), rules of court may be made for the following purposes -

- (a) prescribing the procedure for the transfer of proceedings between the Court and the Court of First Instance;
- (b) prescribing the jurisdiction of the Court which the Registrar may exercise (including provision for appeal against decisions made in the exercise of the jurisdiction);
- (c) regulating matters relating to the fees and costs of proceedings (including proceedings in connection with the administration of estates and trusts) in the Court and matters incidental to the proceedings;
- (d) prescribing in what cases absent persons having an interest in a cause or matter are bound by any order made;

- (e) regulating the execution of the process of the Court, including -
  - (i) prohibiting judgment debtors and persons against whom civil claims are made from leaving Hong Kong and ordering the payment of compensation to them in prescribed circumstances;
  - (ii) ordering judgment debtors or officers of corporate judgment debtors to appear for examination and their examination; and
  - (iii) the arrest and imprisonment of judgment debtors;
- (f) providing for the method of transferring documents under section 59A to other courts and tribunals, including umpires and arbitrators.

(3) Rules providing for the matters referred to in section 59A may contain

- - (a) provisions to secure the safe custody and return to the Registry of the Court of any document sent to a court or tribunal under the rules; and
  - (b) supplementary provisions the Rules Committee considers expedient.
- (4) The power to make rules of court under this section includes power to make rules as to proceedings by or against the Government.
- (5) Rules of court made under this section apply to all proceedings by or against the Government insofar as they expressly purport so to do.
- (6) In the exercise of his discretion, a judge may excuse a party from compliance with any rule.

**72A. Rules for commencing proceedings  
for estates of deceased persons**

The Rules Committee may make rules of court for -

- (a) proceedings to be commenced against the estate of a deceased person where a grant of probate or administration has not been made by the appointment of a person to represent the estate or otherwise;
- (b) proceedings purporting to have been commenced by or against a dead person to be treated as having been commenced by or against his estate whether or not a grant of probate or administration was made before their commencement; and
- (c) any proceedings commenced or treated as commenced in the Court by or against the estate of a deceased person to be maintained (whether by substitution of parties, amendment or otherwise) by or against, as the case may be, a person appointed to represent the estate or, if a grant of probate or administration is or has been made, by or against the personal representatives.

**72B. Rules as to proof of facts and admission  
of statements in civil proceedings**

- (1) The Rules Committee may make rules of court for -
  - (a) the means by which particular facts may be proved;
  - (b) the mode in which evidence of the facts may be given;
  - (c) the conditions subject to which oral expert evidence may be given.
- (2) The Court may act on a certificate purporting to be a

certificate of a registered medical practitioner in deciding for the purposes of any rules made under this section whether or not a person is fit to attend as a witness.

(3) Notwithstanding any enactment or rule of law under which documents prepared for the purpose of pending or contemplated civil proceedings or in connection with the obtaining or giving of legal advice are in certain circumstances privileged from disclosure, rules made under this section may -

- (a) enable the Court in civil proceedings to direct a party to disclose the expert evidence which he proposes to bring as part of his case at the trial to the other parties by the date specified in the direction (or a later date permitted or agreed under the rules); and
- (b) prohibit a party who fails to comply with a direction under rules made under paragraph (a) from bringing in evidence under Part IV of the Evidence Ordinance (Cap. 8) any expert report that deals with matters specified in the direction except with the leave of the Court.

(4) Without prejudice to the general nature of subsection (1)(c), rules made under that paragraph may prohibit a party who fails to comply with a direction given under rules made under subsection (3)(b) from bringing any oral expert evidence dealing with matters specified in the direction, except with the leave of the Court.

- (5) A rule made under this section may make different provision-
- (a) for different classes of cases;
  - (b) for expert reports dealing with matters of

different classes; and

(c) for other different circumstances.

(6) In this section references to an expert report are references to a written report by a person dealing wholly or mainly with matters on which he is (or would if living be) qualified to give expert evidence.

## **72C. Rules as to stop orders and notices**

(1) In this section -

“prescribed securities” ( 訂明的保證物 ) means securities (including funds in court)

of a kind prescribed by rules of court made under this section;

“stop notice” ( 停止通知書 ) means a notice requiring any person on whom it is served to refrain from taking any of the steps mentioned in subsection (4) in respect of any of the securities specified in the notice, without first notifying the person by whom, or on whose behalf, the notice was served;

“stop order” ( 停止令 ) means an order of the Court prohibiting the taking of any of the steps mentioned in subsection (4) in respect of any of the securities specified in the order.

(2) The Rules Committee may make rules of court for -

(a) the Court to make a stop order on the application of a person claiming to be entitled to an interest in prescribed securities; and

(b) the service of a stop notice by a person claiming to be entitled to an interest in prescribed securities.

(3) Rules of court made under this section are to prescribe the person on whom a copy of a stop order or stop notice is to be served.

- (4) The steps mentioned in subsection (1) are -
- (a) the registration of a transfer of the securities;
  - (b) for funds in court, the transfer, delivery out, payment or other dealings with the funds, or of the income on the funds;
  - (c) the payment of a dividend, interest or otherwise for the securities; and
  - (d) for a unit trust, an acquisition of or other dealing with the units by a person or body exercising functions under the trust.

(5) Rules made under this section may include incidental, supplementary and consequential provisions that the Rules Committee considers expedient, and may make different provision for different cases or classes of cases.

## **72D. Orders for interim payment**

(1) The Rules Committee may make rules of court for the circumstances in which the Court may order a party to pending proceedings to make an interim payment of the amount specified in the order, either by payment into court or (if the order provides) by paying it to another party to the proceedings.

(2) The rules made under subsection (1) may enable a party to proceedings who has made an interim payment under an order to recover the whole or part of the amount of the payment in the circumstances, and from the party to the proceedings, determined under the rules.

(3) Rules made under this section may include incidental, supplementary and consequential provisions that the Rules Committee considers expedient.

(4) This section does not affect the exercise of any power

relating to costs, including any power to make rules of court relating to costs.

(5) In this section “interim payment” (中期付款) means a payment on account of any damages, debt or other sum (excluding any costs) which a party may be held liable to pay to or for the benefit of another party to the proceedings if a final judgment or order of the Court in the proceedings is given or made in favour of that other party.

(6) This section binds the Government so far as any proceedings to which this section is applicable can be brought by or against the Government in accordance with the Crown Proceedings Ordinance (Cap. 300).

**72E. Orders for provisional damages for personal injuries**

(1) This section applies to proceedings in an action in which a claim for personal injuries is made in which there is proved or admitted to be a chance that in the future the injured person will develop some serious disease or suffer some serious deterioration in his physical or mental condition as a result of the act or omission which gave rise to the cause of action.

(2) The Rules Committee may make rules enabling the Court in giving judgment in a case to which this section applies to award the injured person-

- (a) damages assessed on the assumption that the injured person will not develop the disease or suffer the deterioration in his condition; and
- (b) further damages at a future date if he develops the disease or suffers the deterioration.

(3) Rules made under this section may include incidental,

supplementary and consequential provisions that the Rules Committee considers expedient, and may provide for the injured person to elect whether or not to accept an award of damages assessed under the rules.

(4) This section does not -

- (a) affect the exercise of any power relating to costs, including any power to make rules of court relating to costs; or
- (b) prejudice any duty of the Court under any enactment or rule of law to reduce or limit the total damages which would have been recoverable apart from the duty.

### **73. Suitors Fund Rules**

(1) The Chief Justice may make rules for regulating -

- (a) the deposit, payment, delivery, and transfer in, into, and out of the Court of money, securities, and movable property of suitors;
- (b) the evidence of such deposit, payment, delivery, or transfer, and the investment of and other dealings with money, securities, and movable property in court;
- (c) the execution of the orders of the Court; and
- (d) the powers and duties of the Registrar with reference to such money, securities, and property.

(2) Without prejudice to the general nature of subsection (1), rules made under this section may provide for -

- (a) regulating the placing on and withdrawal from deposit of money in court, and the payment or crediting of interest on money placed on deposit;

- (b) determining the smallest amount of money on deposit on which interest is to be credited to an account to which money placed on deposit belongs;
- (c) determining the time at which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest;
- (d) determining the cases in which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest;
- (e) determining the cases in which interest on money placed on deposit and the dividends on any securities standing in the name of the Registrar is or are to be placed on deposit; and
- (f) disposing of money, other than the balance of an intestate estate, remaining unclaimed in court or money remaining unclaimed in the Bankruptcy Estate Account established under section 128 of the Bankruptcy Ordinance (Cap. 6).".

#### **41. Amendment of limits of jurisdiction**

Section 73A is amended -

- (a) by repealing "34," and "41,";
- (b) by repealing "69" and substituting "69B".

#### **42. No action for false imprisonment**

Section 89 is repealed.

#### **43. Transitional**

Section 90 is repealed.

#### **44. Consequential amendment to other enactments**

- (1) The Copyright Ordinance (Cap. 528) is amended in sections 134(1) and 232(1) by repealing “32” and substituting “32(1)”.
- (2) The Rules of the High Court (Cap. 4 sub. leg.) is amended in Order 78, rule 1(1) by repealing “38 or 39” and substituting “42 or 43”.

#### **45. “司法常務官” substituted for “司法常務主任”**

The Ordinance and the subsidiary legislation specified in column 2 of Schedule 1 are amended to the extent and in the manner specified in column 3 of that Schedule in relation to each of them.

#### **46. “司法常務官” substituted for “司法常務**

##### **主任”:** consequential amendments

The enactments specified in column 2 of Schedule 2 are amended to the extent and in the manner specified in column 3 of that Schedule in relation to each enactment.

#### **47. “區域法院” substituted for “法院”, etc.**

The Ordinances and subsidiary legislation specified in column 2 of Schedule 3 are amended -

- (a) by repealing “法院” wherever it appears and substituting “區域法院” in the provisions set out in Part I in column 3 of that Schedule;
- (b) by repealing “法庭” wherever it appears and substituting “區域法院” in the provisions set out in Part II in column 3 of that Schedule;
- (c) to the extent and in the manner specified in Part III of column 3 of that Schedule.

## SCHEDULE 1

[s. 45]

Item	Ordinance/Subsidiary Legislation	Amendment
1.	District Court Ordinance (Cap. 336)	(a) In section 14(2) and (3), repeal “司法常務主任” where it first appears and substitute “司法常務官”.  (b) In sections 17(1), 24, 25, 52E(5) (a) (ii), 75(2), 76(2), 77(4) and 77B(1), repeal “司法常務主任” and substitute “司法常務官”.
2.	District Court Civil Procedure (Fees) Rules (Cap. 336 sub. leg.)	In section 6 and the Schedule (items 2(c), 3, 5, 7 and 21), repeal “司法常務主任” wherever it appears and substitute “司法常務官”.
3.	District Court Suitors Funds Rules (Cap. 336 sub. leg.)	(a) (i) In rule 2, in the definition “Registrar”, repeal “(司法常務主任)” and substitute “(司法常務官)”.  (ii) In rules 2 (in the definitions “分類帳貸方” and “儲存金” or “法院儲存金”), 3(1), (2) and (5), 4(1) and (2), 5(1), 6(2), (3), (4), (5) and (6), 7, 8(1), 9, 10, 11(1), 12(1) and (2), 13(1), 14, 16(1), (2), (4) and (6), 17, 19, 20, 21(1), (2) and (3) and 22 and the Schedule (Forms 2 and 3), repeal “司法常務主任” wherever it appears and substitute “司法常務官”.  (b) In the Schedule, in Forms 1, 2, 4 and 5, repeal “司法常務主任” and substituting “司法常務官”.
4.	District Court (Fixed Costs in Matrimonial Causes) Rules (Cap. 336 sub. leg.)	In rules 4(1), 5(1) and (2), 6(1), (2) and 7(1) and the First Schedule (paragraph 5(b)) and Second Schedule (Forms 1A, 1B, 2 and 3), repeal “司法

常務主任” wherever it appears and substitute “司法常務官”.

5. District Court Equal Opportunities Rules (Cap. 336 sub. leg.) (a) In rule 3(1) and (2), repeal “司法常務主任” and substitute “司法常務官”.  
(b) In rule 5(2), repeal “司法常務主任” where it first appears and substitute “司法常務官”.

## SCHEDULE 2

[s.46]

Item	Enactment	Amendment
1.	The Rules of the High Court (Cap. 4 sub. leg.)	In Order 53, rule 5(3), Order 55, rule 4(1) (a), Order 59, rules 16(5) and (6) and 19(2), Order 61, rules 2(2) and 3(1)(b) and (6), Order 62, rule 30(6) and Order 80, rule 13(3), repeal “司法常務主任” wherever it appears and substitute “司法常務官”.
2.	Attachment of Income Order Rules (Cap. 13 sub. leg.)	In the Schedule, in Forms 2, 3, 4, 5 and 6, repeal “司法常務主任/”.
3.	Separation and Maintenance Orders Ordinance (Cap. 16)	In sections 5(1) (c) and (d), 7(4)(b) and 9(1), repeal “司法常務主任” and substitute “司法常務官”.
4.	Lands Tribunal Ordinance (Cap. 17)	(a) (i) In section 2, in the definition “Registrar”, repeal “(司法常務主任)” and substitute “(司法常務官)”. (ii) In sections 7B(1), 7C, 9(8) and 13(b), repeal “司法常務主任” wherever it appears and substitute “司法常務官”. (b) In sections 7A(1), (2) and (3) and 7B(2), repeal “司法常務主任” where it first appears and substitute “司法常務官”.
5.	Lands Tribunal Rules (Cap. 17 sub. leg.)	In rules 4(1), 5(2), 6, 10, 13(1) and (4), 14(1), 15(2), (3), (4) and (6), 16, 20(1), (3), (4) and (5), 22, 24(4), 34(1), 35, 36, 38(1), 39, 40(1) (a) and

- (3), 41(2), 44(1), 45, 46(1) (a) and (3), 47(2), 48(1), 49, 50, 51, 53(1), 54, 56(1), 57, 58(1), (2), (3) and (4), 59(1) and (3), 60, 61, 62(1), 63, 65(1), 66(1), 68(1), 69, 72(1), 73, 74(1), (2), (3) and (7), 75, 77 and 78 and the Schedule (all Forms except Form 30), repeal “司法常務主任” wherever it appears and substitute “司法常務官”.
6. Lands Tribunal (Fees) Rules (Cap. 17 sub. leg.) In rule 4 and the Schedule (items 9(a), 21(b), 30 and 34), repeal “司法常務主任” wherever it appears and substitute “司法常務官”.
7. Companies (Disqualification Orders) Regulations (Cap. 32 sub. leg.) In section 3(1) (b), repeal “司法常務主任” and substitute “司法常務官”.
8. Legal Aid (Scale of Fees) Regulations (Cap. 91 sub. leg.) In rule 2, in the definition “主理訟費評定事務聆案官”, repeal “司法常務主任” and substitute “司法常務官”.
9. Rating Ordinance (Cap. 116) In section 42B(3), repeal “司法常務主任” and substitute “司法常務官”.
10. Stamp Duty Ordinance (Cap. 117) (a) In section 14(1)(c) and (6), repeal “司法常務主任” wherever it appears and substitute “司法常務官”.  
 (b) In Schedule 1, in head 1(1), in Note 2 and in head 2(3), in Note 1, repeal “或司法常務主任”.
11. Matrimonial Causes Rules (Cap. 179 sub. leg.) In rules 2(2) (in the definition “司法常務官”), in paragraph (a) and 91(1), repeal “司法常務主任” and substitute “司法常務官”.
12. Maintenance Orders (Reciprocal Enforcement) Ordinance (Cap. 188) In section 2(1), in the definition “司法常務官”, in paragraph (b), repeal “司法常務主任” where it first appears and substitute “司法常務官”.
13. Criminal Procedure Ordinance (Cap. 221) In sections 65G(b) and 79(2) (e), repeal “司法常務主任” and substitute “司法常務官”.

14. Live Television Link and Video Recorded Evidence Rules (Cap. 221 sub. leg.) In rule 2, in the definition “法院人員”, repeal “司法常務主任” and substitute “司法常務官”.
15. Magistrates Ordinance (Cap. 227) In section 35A(1)(e), repeal “司法常務主任” and substitute “司法常務官”.
16. Summary Offences Ordinance (Cap. 228) In section 7(2)(b), repeal “司法常務主任”.
17. Land Transactions (Enemy Occupation) Ordinance (Cap. 256) In section 6(3), repeal “或司法常務主任”.
18. Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) In section 23(2), repeal “司法常務主任” and substitute “司法常務官”.
19. Employees' Compensation Regulations (Cap. 282 sub. leg.) (a) In section 5, add “司法常務官或” before “司法常務主任”.  
(b) In the Schedule, in Form 3, add “司法常務官或” before “司法常務主任”.
20. Employees' Compensation (Rules of Court) Rules (Cap. 282 sub. leg.) (a) In the heading before rule 4, add “司法常務官或” before “司法常務主任”.  
(b) In rules 4, 5, 6, 7, 9, 10, 11, 13(a), 16(1), 17(1), (2) and (3), 18(2), 19, 21, 22(1) and (2) and 24(2) and the Schedule (Forms 5 and 11), add “司法常務官或” before “司法常務主任” wherever it appears.  
(c) In the Schedule, in Forms 4, 7 and 9, add “司法常務官或” before “司法常務主任”.
21. Adoption Rules (Cap. 290 sub. leg.) (a) In rules 20 and 26, repeal “司法常務主任” and substitute “司法常務官”.  
(b) In the Schedule 1, Forms 7 and 8, repeal “司法常務主任” and substitute “司法常務官”.

22. Hong Kong Airport (Control of In section 25(2), repeal “司法常務主任” Obstructions) Ordinance (Cap. and substitute “司法常務官”. 301)
23. Small Claims Tribunal (a) In section 2, in the definition “registrar”, Ordinance (Cap. 338) repeal “(司法常務主任)” and substitute “(司法常務官)”.
- (b) In sections 12(1), (3) and (4), 14(1) and (2) and 18(4) and (5) (c), repeal “司法常務主任” wherever it appears and substitute “司法常務官”.
24. Small Claims Tribunal (a) In rules 5, 6(1) and (2), 7 (where “司法常務主任” first appears), 8(1) (a) and 9(1) (a), repeal “司法常務主任” wherever it appears and substitute “司法常務官”.
- (b) In rule 7, repeal “或司法常務主任”.
25. Small Claims Tribunal (Fees) Rules (Cap. 338 sub. leg.) In rule 4 and the Schedule (items 6(b), 7, 13(a) and 18), repeal “司法常務主任” wherever it appears and substitute “司法常務官”.
26. Small Claims Tribunal (Forms) Rules (Cap. 338 sub. leg.) In the Schedule, Forms 2, 3, 4, 5, 8A, 8B and 8E, repeal “司法常務主任” and substitute “司法常務官”.
27. Small Claims Tribunal (Suitors’ Funds) Rules (Cap. 338 sub. leg.) (a) (i) In rule 2, in the definition “registrar”, repeal “(司法常務主任)” and substitute “(司法常務官)”.
- (ii) In rules 2 (in the definition “儲存金”), 3(1) and (2), 4(1), 5(1) and (2), 6(1), 7, 8, 9(1) and 10(1) and (2), repeal “司法常務主任” wherever it appears and substitute “司法常務官”.
- (b) In the Schedule, in Form 1, repeal “司法常務主任” and substitute “司法常務官”.
28. Partition Rules (Cap. 352 sub. leg.) In rule 2(1), in the definition “司法常務官”, in paragraph (b), repeal “司

		法常務主任” and substitute “司法常務官”.
29.	Water Pollution Control (Sewerage) Regulation (Cap. 358 sub. leg.)	In section 19(2), repeal “司法常務主任” and substitute “司法常務官”.
30.	Pneumoconiosis (Compensation) Appeal Rules (Cap. 360 sub. leg.)	(a) In section 1, in the definition “Registrar”, repeal “(司法常務主任)” and substitute “(司法常務官)”.  (b) In sections 3(1), 4(1) and (2), 5 and 6(1) and the Schedule (Forms 1 and 2), repeal “司法常務主任” wherever it appears and substitute “司法常務官”.
31.	Roads (Works, Use and Compensation) Ordinance (Cap. 370)	In section 30(2), repeal “司法常務主任” and substitute “司法常務官”.
32.	Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405)	(a) In section 8(8), repeal “司法常務主任” and substitute “司法常務官”.  (b) In Schedule 3, repeal “司法常務主任” and substitute “司法常務官”.
33.	Parent and Child Ordinance (Cap. 429)	In sections 6(4) and 12(9), repeal “司法常務主任” and substitute “司法常務官”.
34.	Minor Employment Claims Adjudication Board Ordinance (Cap. 453)	In section 37, repeal “司法常務主任” and substitute “司法常務官”.
35.	Minor Employment Claims Adjudication Board (General) Rules (Cap. 453 sub. leg.)	In rule 8(2), repeal “司法常務主任” and substitute “司法常務官”.
36.	Organized and Serious Crimes Ordinance (Cap. 455)	(a) In section 13(8), repeal “司法常務主任” and substitute “司法常務官”.  (b) In Schedule 5, repeal “司法常務主任” and substitute “司法常務官”.
37.	Costs in Criminal Cases Ordinance (Cap. 492)	In sections 20(2) (a) and 21, repeal “司法常務主任” wherever it appears and substitute “司法常務官”.
38.	Costs in Criminal Cases Rules (Cap. 492 sub. leg.)	In rules 5(2) (a) and 10(2) (a), repeal “司法常務主任” and substitute “司法常務

官”.

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|----------------------------------------------------------------------|-----------------------------------------------------------|
| 39. Estate Agents Ordinance (Cap. 511)                               | In section 52, repeal “司法常務主任” and substitute “司法常務官”.    |
| 40. Government Rent (Assessment and Collection) Ordinance (Cap. 515) | In section 30(3), repeal “司法常務主任” and substitute “司法常務官”. |
| 41. Railways Ordinance (Cap. 519)                                    | In section 35(2), repeal “司法常務主任” and substitute “司法常務官”. |

### SCHEDULE 3

[s. 47]

#### PART I

Item	Enactment	Amendment
1. District Court Ordinance (Cap. 336)		Section 2 (definition “事宜”), 3(2) (except where it secondly appears), 4(1) (where it first appears), 10 (except where it first, secondly and thirdly appears), 12(1) and (2), 14(2) (except where it secondly appears) and (3), 15(1) (except where it secondly and thirdly appears), (2) and (3), 18(1) (where it first appears), 20, 22, 24, 25(a), 26, 27, 28, 29, 30, 33(1) (where it first appears), 45, 52(1) and (2), 52D(4) (b), 52E(1), 58(1) and (2), 64(2), 65 (where it first appears), 66(1), 66A(1), 68(1), 71(1), 73B(1), (2) (except where it secondly and thirdly appears), (3), (4) (c) (i), (5), (6), (8) (a) (i) (B) and (b) (ii) and (9), 73C(1), (2) (except where it secondly and thirdly appears), (3), (4) (c) (i), (5), (6), (8) (a) (i) (B) and (b) (ii) and (9), 73D(1), (2) (except where it secondly and thirdly appears), (3), (4) (c) (i), (5), (6), (8) (a) (i) (B) and (b) (ii) and (9), 74, 75(1), (1A), (2) and (3), 75A(1) and (2), 76(2), 77(3), (4) and (5), 77A(13), 78, 79(1), (2), (3), (4) and (5) (a), 83, 85, 86 and 87 and the First Schedule (where it secondly appears).

2. District Court Civil Procedure In rules 2 and 4.  
(Fees) Rules (Cap. 336 sub. leg.)
3. District Court Suitors' Fund Rules (Cap. 336 sub. leg.)
  - (a) In rule 2, in the definition "lodge in court", repeal "(向法院交存)" and substitute "(向區域法院交存)".
  - (b) In rules 8(1) (where it secondly appears), 11(4), 12(2), 16(3) (except where it first appears) and 20.
4. District Court Equal Opportunities Rules (Cap. 336 sub. leg.)

## PART II

Item	Enactment	Amendment
1.	District Court Ordinance (Cap. 336)	Sections 14(2), 20 (except where it secondly and last appears), 22, 52D(1), (4) and (5) (except where it secondly appears), 52E(2), (3), (4), (5) (a) (i), (7) and (8) (a), 60(1), 75(4) (a), 75A(3) and (4), 76(1) and (2), 77A(1) (except where it last appears), (9) and (11), 79A(1), 81(1) and (2) and 82(1), (2), (3), (4) and (5) (where it secondly appears) and Schedule 2, in Part II (paragraph 1(1) and (2), 2(2) and 3(1), (2), (3) and (4)).

## PART III

Item	Enactment	Amendment
1.	District Court Ordinance (Cap. 336)	<ol style="list-style-type: none"><li>(a) In section 2, in the definition "Court", repeal "(法院、法庭)" and substituting "(區域法院)".</li><li>(b) In sections 12, 14, 18, 27, 28, 79 and 81, repeal "法院" and substituting "區域法院".</li><li>(c) In section 77B -</li></ol>

		(i) in subsection (4), repeal “法庭” and substituting “區域法院有關”;
		(ii) in subsection (5), repeal “該法庭” and substituting “區域法院有關”.
2.	District Court Civil Procedure (Fees) Rules (Cap. 336 sub. leg.)	In the Schedule, in item 2, in the heading, repeal “法院” and substituting “區域法院”.
3.	District Court Suitors’ Funds Rules (Cap. 336 sub. leg.)	In section 2, in the definition “Court”, repeal “(法院)” and substituting “(區域法院)”.
4.	District Court Equal Opportunities Rules (Cap. 336 sub. leg.)	In section 2, in the definition “Court”, repeal “(法院、法庭)” and substituting “(區域法院)”.

#### Explanatory Memorandum

This Bill implements a number of changes to the District Court Ordinance (Cap. 336) as a result of a review of the workings of the District Court.

2. The main provisions of the Bill are as follows -

- (a) to make provisions for raising the various financial limits of the civil jurisdiction of the District Court to enable more civil cases dealing with claims in contract or tort to be heard in the District Court and also to cover inflation and the rise in property prices and rental values since these limits were last reviewed. These provisions include revising -
  - (i) the civil jurisdiction of the District Court from \$120,000 to \$600,000 (clause 20);
  - (ii) the jurisdiction of recovery of land from a rateable value of \$100,000 to \$240,000

- (clause 22 - new section 35);
- (iii) the jurisdiction where title to land is in question from a rateable value of \$100,000 to \$240,000 (clause 22 - new section 36); and
- (iv) various levels in respect of equity jurisdiction (clause 22 - new section 37);
- (b) to amend section 2 to provide for new definitions of “action for personal injuries” and “personal injuries” (clause 3) and to set a financial limit of \$600,000 for personal injuries cases (clause 20 - new section 32(2));
- (c) to define the role, functions and power of the Registrar of the District Court and add a section on the protection of the Registrar (clauses 3, 6, 32, 34 and 39);
- (d) to enhance the power of District Judges to impose penalties for contempt of court (clause 23 - new section 48B);
- (e) to provide for heavier penalties for various misdemeanors by officers of the District Court (clauses 14, 15 and 16) and heavier penalties to be imposed on persons assaulting such officers (clauses 17 and 18);
- (f) to provide for the inclusion within the jurisdiction of the District Court of actions of quasi-contract or claims brought pursuant to the Married Persons Status Ordinance (Cap. 182) (clauses 20 and 22 - new sections 32 and 38);
- (g) to provide for the transfer to the District Court of cases inappropriately commenced in the Court of First Instance and vice versa (clause 22 - new sections 42, 43, 44, 44A and 44B);
- (h) to provide for the introduction of procedures for

- disclosure (clause 23 - new sections 47A, 47B, 47C, 47D and 47E);
- (i) to make consequential amendments to the Copyright Ordinance (Cap. 528) and the Rules of the High Court (Cap. 4 sub. leg.) (clause 44);
  - (j) to make amendments and consequential amendments to the Chinese title of “Registrar” (clauses 45 and 46 and Schedules 1 and 2);
  - (k) to amend the Chinese rendition for the defined term “Court” (clause 47 and Schedule 3).