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JDScott/DMA20669

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DISTRICT COURT (AMENDMENT) BILL

COMMITTEE STAGE

Amendments to be moved by the

<u>Clause</u>	<u>Amendment Proposed</u>
3(a)	In the definition of “司法常務官” , by deleting “主任” where it twice appears and substituting “官” 。
9	(a) In the proposed section 14(1), by deleting “主任” where it twice appears and substituting “官” 。
	(b) By adding - “(1A) The following is added in section 14 - “(2A) The Registrar shall have and may exercise and perform such other jurisdiction, powers and duties as may be conferred or imposed on him by or under rules of court or any other law.

Clause

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(3A)The deputy registrars and assistant registrars
may be called Masters.”.”.

New

By adding -

“9A. Sections added -

The following are added -

**“14A. Appointment of temporary
deputy registrars**

(1) The Chief Justice may appoint a person to be a
temporary deputy registrar if -

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

(b) he considers that the interest of the
administration of justice requires that a
temporary deputy registrar should be
appointed.

(2) Without prejudice to the generality of the power
conferred on him by subsection (1), the Chief Justice may
appoint a temporary deputy registrar for a specified period
only.

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(3) A temporary deputy registrar shall, during the period for which he is appointed, have all the jurisdiction, powers and privileges, and perform all the duties of a deputy registrar and any reference in any law to a deputy registrar shall be construed accordingly.

(4) The Chief Justice may terminate the appointment of a temporary deputy registrar at any time.

(5) A temporary deputy registrar may be called Master.

(6) In this section and section 14C, “temporary deputy registrar”(暫委副司法常務官) means a person appointed under subsection (1) to be a temporary deputy registrar.

14B. Appointment of temporary assistant registrars

(1) The Chief Justice may appoint a person to be a temporary assistant registrar if -

- (a) the office of any assistant registrar becomes vacant for any reason; or

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(b) he considers that the interest of the administration of justice requires that a temporary assistant registrar should be appointed.

(2) Without prejudice to the generality of the power conferred on him by subsection (1), the Chief Justice may appoint a temporary assistant registrar for a specified period only.

(3) A temporary assistant registrar shall, during the period for which he is appointed, have all the jurisdiction, powers and privileges, and perform all the duties of an assistant registrar and any reference in any law to an assistant registrar shall be construed accordingly.

(4) The Chief Justice may terminate the appointment of a temporary assistant registrar at any time.

(5) A temporary assistant registrar may be called Master.

(6) In this section and section 14C, “temporary assistant registrar” (暫委助理司法常務官) means a person appointed

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under subsection (1) to be a temporary assistant registrar.

14C. Powers of temporary deputy registrars, etc. in case which is part-heard on termination of appointment

(1) In the hearing of any proceedings before a temporary deputy registrar is adjourned or he reserves judgment in any proceedings, the temporary deputy registrar shall have power to resume the hearing and determine the proceedings or deliver judgment, notwithstanding that his appointment as a temporary deputy registrar has expired or has been terminated.

(2) Subsection (1) shall apply to a temporary assistant registrar as it applies to a temporary deputy registrar.”.”.

14 By deleting the clause and substituting -

“14. Section repealed

Section 26 is repealed.”.

20 In proposed new section 32 -

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(a) by deleting subclauses (1) and (2) and substituting -

“(1) The Court has jurisdiction to hear and determine any action founded on contract, quasi-contract or tort where the amount of the plaintiff’s claim does not exceed \$600,000.”;

(b) by deleting subclause (3) and substituting-

“(2) 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;

(b) any employees’ compensation paid to the plaintiff under the Employees’ Compensation Ordinance (Cap. 282); and

(c) any contributory negligence that the

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plaintiff admits in his statement of claim.”;

and

(c) in subclause (4), by renumbering the subclause as “subclause (3)”.

22

(a) By deleting proposed new section 35 and substituting -

**“35. Jurisdiction for recovery
of land**

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

(b) By deleting proposed new section 36 and substituting -

**“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

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value, determined under the Rating Ordinance (Cap. 116) or the annual value, whichever is the less, of the land, over which the easement or licence is claimed, does not exceed \$240,000; or

(b) for any other case, the rateable value determined under the Rating Ordinance (Cap. 116) or the annual value, whichever is the less, of the land does not exceed \$240,000.”.

(c) By deleting proposed new section 37(4) and substituting -

“(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 annual rent or the rateable value, determined in accordance with the Rating Ordinance (Cap. 116), or the annual value of the land, whichever is the least, exceeds \$240,000.”.

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(d) By deleting proposed new section 39.

(e) In proposed new section 40, by deleting “and 39”.

(f) By deleting proposed new section 42(3) and substituting -

“(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

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as to the whole or a part of the subject matter of the counterclaim, be heard and determined by the Court; or

- (c) where the Court considers the whole proceedings should be heard and determined in the Court, that the matter be reported to the Court of First Instance or a judge thereof.

(4) On the receipt of a report mentioned in subsection (3) (c), the Court of First Instance or a judge thereof may, as it or he thinks fit, order either -

- (a) that the whole proceedings be transferred to the Court of First Instance; or
- (b) that the whole proceedings be heard and determined in the Court; or
- (c) that the proceedings on the counterclaim be transferred to the Court

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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.

(5) Where an order is made under subsection (3) (b) or subsection (4) (c) and judgment on the claim is given for the plaintiff, execution thereon shall, unless the Court of First Instance or a judge thereof at any time otherwise orders, be stayed until the proceedings transferred to the Court of First Instance have been concluded.

(6) If no report is made under subsection (3) (c), or if on any such report it is ordered that the whole proceedings be heard and determined in the Court, the Court shall have jurisdiction to hear and determine the whole proceedings notwithstanding any enactment to the contrary.”.

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(g) In proposed new section 43, by deleting “(whether or not the party has entered into a jurisdiction agreement under section 39)”.

(h) By deleting proposed new section 44A(3).

23

(a) By deleting proposed new section 49(5) and substituting -

“(5) Interest in respect of a debt shall not be awarded under this section for a period during which, for whatever reason, interest on the debt already runs.”.

(b) In proposed new section 49(7), by deleting “cannot” and substituting “shall not”.

27

By deleting proposed new section 53.

30

By deleting proposed new section 59A.

32

By deleting proposed new section 63(1) and substituting -

“(1) Subject to subsection (3), an appeal can, with leave, be made to the Court of Appeal, from every judgment, order or decision of a judge in any civil cause or matter.”.

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By deleting the clause and substituting -

“71A. Registrar may apply for order

The Registrar may, in case of doubt or difficulty, apply summarily to the Court for an order for the direction and guidance of a bailiff, and the Court may make such order in the matter as may seem just and reasonable.

71B. Protection of Registrar

- (1) No action shall be brought against the Registrar for -
- (a) any act done or omitted to be done by any bailiff without directions from the Registrar; or
 - (b) any direction given to any bailiff with regard to the execution or non-execution of process if -
 - (i) such directions are in accordance with an order from the Court under section 71A;
and
 - (ii) no material fact is wilfully

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misrepresented or suppressed by the Registrar.

(2) In this section -

“Registrar” (司法常務官) includes a Master.”.

40

In proposed new section 72(2) -

(a) in paragraph (f), by deleting the full stop and substituting a semi-colon;

(b) by adding -

“(k) providing that, in any case where a document filed in, or in the custody of, the Registry of the Court is required to be produced to any court or tribunal (including an umpire or arbitrator) sitting elsewhere than at the Court -

(i) it shall not be necessary for any officer, whether served with a subpoena in that behalf or not, to attend for the purpose of producing the document; but

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(ii) the document may be produced to the court or tribunal by sending it to the court or tribunal, in the manner prescribed in the rule, together with a certificate, in the form so prescribed, to the effect that the document has been filed in, or is in the custody of, the Registry,

and any such certificate shall be prima facie evidence of the facts stated in it.”.

14

By deleting the clause and substituting -

“73A. Amendments of limits of jurisdiction and other amounts

The amounts mentioned in sections 32, 33, 35, 36, 37, 49, 52, 68B and 69B may be amended by resolution of the Legislative Council.”.

<u>Clause</u>	<u>Amendment Proposed</u>
44	<p>By adding -</p> <p style="padding-left: 40px;">“(3) Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (Cap. 92) is amended by adding -</p> <p style="padding-left: 80px;">“Registrar (司法常務官) , Deputy Registrar (副司法常務官) and Assistant Registrar (助理司法常務官) of District Court.”.</p>
Schedule 1	<p>In item 1, column 3, by deleting “首次” and substituting “所有” .</p>
Schedule 2	<p>(a) By adding -</p> <p style="padding-left: 40px;">“1A. 《 陪審團條例 》(第 3 章)</p> <p style="padding-left: 80px;">(a) 將第 5 條重編為第 5(1)條。</p> <p style="padding-left: 80px;">(b) 在第 5(1) (b) (i)條中，廢除 “或副司法常務主任” 及 “或助理司法常務主任” 。</p> <p style="padding-left: 80px;">(c) 加入 — “(2)在本條中 —</p>

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- (a) 凡提述“司法常務官”之處，即包括提述區域法院司法常務官；
- (b) “副司法常務官”指高等法院或區域法院司法常務官；
- (c) “助理司法常務官”指高等法院或區域法院助理司法常務官。”。

(b) In item 1, in column 3 -

- (i) by deleting “第 61 號命令第 2(2)及 3(1) (b)及(6) 條規則、” ；
- (ii) renumber it as paragraph (a);

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(iii) by adding -

“(b) 在第 61 號命令第 2(2)及 3(1) (b)及(6) 條規則中，在 “書記主任” 之後加入 “或審裁處的司法常務官” 。

(c) In item 4, by deleting column 4 and substituting -

“在第 2 (在 “司法常務主任” 的定義中)，7A、7B、7C、9(8)及 13(b)條中，廢除所有 “司法常務主任” 而代以 “司法常務官” 。”。

(d) By adding -

“6A. 《勞資審裁處 (一般) 規則》 (第 25 章, 附屬法例)

(a) 在第 7(1)及(2)條中，廢除 “或司法常務主任” 。

(b) 在第 12(2) 及 (3) 條中，廢除 “司法常務主任” 而代以 “司法常務官” 。

6B. 《勞資審裁處(表格) 規則》 (第 25 章, 附屬法例)

在附表 6 (表格 5 及 17) 中，廢除所有 “區域法院司法常務主任” 而代以 “區域法院司法常務官” 。”。

(e) By adding -

“8A. 《電訊條例》(第 106 章)

在第 15(2)條中，廢除 “副司法常務主任” 而代以 “副司法常務官” 。”。

(f) In item 12, in column 3, by deleting “首次” and substituting “所有” 。

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(g) In item 24, in column 3(b), by deleting “或” and substituting “、”.

(h) By adding -

“39A. 《地產代理（登記裁定及上訴規例》（第 511 章，附屬法例）

在第 2（“司法常務主任”的定義）、3(2)及(3)、4(2)及 5(2)條以及附表 1（表格 1 及 2）中，廢除所有“司法常務主任”而代以“司法常務官”。”。