

**Committee Stage Amendments to District Court (Amendment) Bill**  
**(Position as at 10 April 2000)**

	<u>Clause No.</u>	<u>Content of proposed Committee Stage Amendments</u>	<u>Remarks</u>	<u>Draft CSAs</u>
1.	Clause 3 (section 2) - Interpretation	To delete the definition “action for personal injuries”.	The definition is no longer necessary given the combination of proposed section 32(1) and (2) of the Bill.	Page 1 of <u>Annex</u>
2.	Clause 9 (section 14) - Officers of the Court			
	(a) section 14(3A)	To add a provision similar to section 37(2) of the High Court Ordinance to provide that the deputy registrar and assistant registrar of the District Court may be called Masters.	To introduce to the District Court a Master system, similar to the of the High Court, to deal with less contentious applications and cases clearly without merit in an expeditious manner.	Page 2 of <u>Annex</u>
	(b) Schedule 1 and 2	To amend the Chinese rendition of Deputy Registrar (副司法常務主任) and Assistant Registrar (助理司法常務主任) to 副司法常務官 and 助理司法常務官 in the Ordinance, its subsidiary legislation and other enactments where they appear.		Page 16-20 of <u>Annex</u>
	(c) section 14(2A)	To provide that the Registrar, District Court “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”.	To follow section 38(1)(b) of the High Court Ordinance for the avoidance of doubt.	Page 1-2 of <u>Annex</u>

	<u>Clause No.</u>	<u>Content of proposed Committee Stage Amendments</u>	<u>Remarks</u>	<u>Draft CSAs</u>
3.	Clause 9 (section 14A, 14B, and 14C)- Appointment of temporary deputy registrars and temporary assistant registrars; Powers of temporary deputy registrars, etc., in case which is part-heard on termination of appointment	To add new sections along the line of section 37A, 37B and 40A of the High Court Ordinance, with an additional provision providing that a temporary deputy registrar/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 a deputy registrar/assistant registrar and any reference in any law to a deputy registrar/assistant registrar shall be construed accordingly.	To provide for the appointment of “temporary deputy registrar” and “temporary assistant registrar” in line with the arrangement for temporary appointments at other levels of courts.  To address a Member’s concern by putting beyond doubt that temporary deputy registrar and temporary assistant registrar have the same powers as the deputy registrar and assistant registrar respectively.	Pages 2 - 5 of <u>Annex</u>
4.	Clause 14 (section 26) - Officers illegally demanding fees	To delete section 26 of the District Court Ordinance.	The section is deleted in the light of a Member’s observation that section 26 is not necessary as the Prevention and Bribery Ordinance is applicable to officers of the court.	Page 5 of <u>Annex</u>

	<u>Clause No.</u>	<u>Content of proposed Committee Stage Amendments</u>	<u>Remarks</u>	<u>Draft CSAs</u>
5.	Clause 20 (section 32) - General jurisdiction in actions of contract, quasi-contract and tort			
(a)	sub-section (1) & (2)	To combine sub-sections (1) and (2) into one sub-section.	In the light of a Member's observation, no need for separate sub-sections given that the proposed limits under the 2 sub-sections are now the same.	Page 6 of <u>Annex</u>
(b)	sub-section (2)(b)	To add a new provision to provide that any compensation, as defined in the Employees' Compensation Ordinance, paid to the plaintiff shall be taken into account in calculating the amount of the plaintiff's claim.	To remove any uncertainty over the District Court's financial limit if employees' compensation is paid to the plaintiff, in the light of the comment of legal practitioners.	Page 6-7 of <u>Annex</u>
(c)	sub-section (2)	To add the words "in his statement of claim" after "the plaintiff admits" in sub-section (2).	To take into account Members' view by putting it beyond doubt that only the set-off and contributory negligence, etc. admitted by the plaintiff in the statement of claim will be taken into account in determining the amount of the plaintiff's claim.	Page 6-7 of <u>Annex</u>

	<u>Clause No.</u>	<u>Content of proposed Committee Stage Amendments</u>	<u>Remarks</u>	<u>Draft CSAs</u>
6.	Clause 22 (sections 35, 36 and 37(4)) - Jurisdiction for recovery of land; where title in question and equity jurisdiction	To add reference to “annual rent” and “annual value”, along the line of the relevant provisions in the current District Court Ordinance.	To take into account Members’ view by putting beyond doubt the District Court’s jurisdiction for land which has no rateable value or exempted from rates under the Rating Ordinance.	Pages 7-9 of <u>Annex</u>
7.	Clause 22 (section 39) - Agreements as to jurisdiction	To delete the section and to remove the references to section 39 in proposed section 40 and 43 of the Bill.	To address Members’ concern that it may not be appropriate to confer unlimited jurisdiction on the District Court by agreement of the parties concerned. Moreover, the proposed revised general jurisdictional limit at \$600,000 should achieve the objective of encouraging a greater flow of civil work into the District Court.	Page 9 & 11 of <u>Annex</u>

	<u>Clause No.</u>	<u>Content of proposed Committee Stage Amendments</u>	<u>Remarks</u>	<u>Draft CSAs</u>
8.	Clause 22 (section 42(3)) - Procedure where proceedings beyond the jurisdiction of the Court are commenced in the Court	<p>(a) To add a new subsection (3)(c) to provide that the Court may, either of its own motion or on the application of any party, order, where the Court considers that the whole proceeding should be heard and determined in the Court, that the matter be reported to the Court of First Instance or a judge thereof.</p> <p>(b) To add a new subsection (4) to provide that upon the receipt of the report, the Court of First Instance or a judge thereof may make either one of the orders set out in section 38(3) of the District Court Ordinance.</p> <p>(c) To add a new subsection (5) to the effect of the proviso in section 38(3) of the District Court Ordinance regarding the stay of execution to cover the order made under section 42(3)(b) of the amendment bill and under section 38(3)(c) of the District Court Ordinance.</p> <p>(d) To add a new section along the line of s.38(4) of the District Court Ordinance, with appropriate modifications.</p>	To take into account a Member's proposal to retain the current arrangement under the District Court Ordinance that the Court of First Instance has power to order that the whole of the action or proceeding be remained with the District Court. This is to cater for those cases which by reason of the nature of the claim or issues involved or the relief sought ought to remain with the District Court, despite the fact that the counterclaim exceeds the jurisdiction of the District Court.	Page 9 – 11 of <u>Annex</u>

	<u>Clause No.</u>	<u>Content of proposed Committee Stage Amendments</u>	<u>Remarks</u>	<u>Draft CSAs</u>
9.	Clause 22 (section 44A(3)) - Transfer to the Court from the Court of First Instance where the parties consent	To delete section 44A(3).	Given the deletion of section 39, we consider it not appropriate to restrict the discretion of the Court of First Instance to dispose of cases which are within its jurisdiction but fall outside the jurisdiction of the District Court.	Page 12 of <u>Annex</u>
10.	Clause 23 (section 49(5) & (7)) - Interest on claims for debt and damages	To replace the word “cannot” with “shall not” in subsection (5) and (7).	The wording in section 48(4) and (6) in the High Court Ordinance on which proposed section 49 is modelled should be followed.	Page 12 of <u>Annex</u>
11.	Clause 27 (section 53) - Review of orders made in the absence of parties	To delete section 53.	Upon reviewing the new section, we consider that the provision is not necessary, given that a similar one, though narrower in scope, will be included in the new District Court Rules which follows Order 32, rule 5 and 6 of the RHC.	Page 12 of <u>Annex</u>

	<u>Clause No.</u>	<u>Content of proposed Committee Stage Amendments</u>	<u>Remarks</u>	<u>Draft CSAs</u>
12.	Clause 30 (section 59A) - production of documents to other courts, etc.	To incorporate section 59A into section 72 of the Bill.	To take into account a Member's view that the wording in section 54(2)(k) of the High Court Ordinance on which proposed section 59A is modelled should be followed.	Page 12 and 14-15 of <u>Annex</u>
13.	Clause 32 (section 63) - Appeal to Court of Appeal	(a) To remove "or Registrar" from subsection (1).  (b) To expressly provide in subsection (1) that, subject to subsection (3), the appeals from every judgment, order or decision of a judge are to the Court of Appeal with leave.	Appeals from decisions of Masters will lie to Judge of District Court, in line with the appeal mechanism in the High Court. Details of the appeal mechanism, including the time for application for leave to appeal and appeal against the refusal of leave will be set out in the Rules of the District Court.	Page 12 of <u>Annex</u>
14.	Clause 39 (section 71A) - Registrar may apply for an order	To revise proposed section 71A along the line of section 40 of the High Court Ordinance (HCO).	To take into account Members' view that proposed section 71A should be redrafted to ensure that it has the same effect as section 40 of HCO.	Pages 12-13 of <u>Annex</u>
15	Clause 39 (section 71B) - Protection of Registrar	To revise proposed section 71B along the line of section 39 of HCO.	To take into account Members' view that proposed section 71B should be redrafted to ensure that it has the same effect as section 39 of HCO.	Pages 13-14 of <u>Annex</u>

	<u>Clause No.</u>	<u>Content of proposed Committee Stage Amendments</u>	<u>Remarks</u>	<u>Draft CSAs</u>
16.	Clause 41 (section 73A) - Amendments of limits of jurisdiction and other amounts	To add to section 73A the reference to section 49 (interest on claims for debt and damages) and section 68B (sale of property in execution of judgment)	To provide that the amounts referred to in section 49 and 68B may be amended by resolution of the Legislative Council	Pages 15-16 of <u>Annex</u>
17.	Clause 44 - Consequential amendment to other enactments	To amend Schedule 1 to the Judicial Officers Recommendation Commission Ordinance by adding 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.	The posts concerned will be filled by judicial officers.	Page 16 of <u>Annex</u>



*JDScott/DMA20669*

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2nd draft: 22.3.2000

3rd draft: 31.3.2000

4th draft: 3.4.2000

5th draft: 3.4.2000

6th draft: 7.4.2000

7th draft: 10.4.2000

## DISTRICT COURT (AMENDMENT) BILL 1999

### COMMITTEE STAGE

#### Amendments to be moved by the Chief Secretary for Administration

#### Clause

#### Amendment Proposed

- 3 (a) In paragraph (a), in the definition “司法常務官”，by deleting “主任” where it twice appears and substituting “官” .
- (b) In paragraph (b), by deleting the definition “action for personal injuries”.
- 9 (a) In subclause (1), in the proposed section 14(1), by deleting “主任” where it first and secondly appears and substituting “官” .
- (b) By adding -
- “(1A) Section 14 is amended by adding -
- “(2A) The Registrar shall have and may exercise and perform such other jurisdiction, powers and

Clause

Amendment Proposed

duties as may be conferred or imposed on him by or under rules of court or any other law.

(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

Clause

Amendment Proposed

appoint a temporary deputy registrar for a specified period only.

(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

Clause

Amendment Proposed

becomes vacant for any reason; or

(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

Clause

Amendment Proposed

助理司法常務官) means a person appointed 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. Officer illegally demanding fees**

Section 26 is repealed.”.

Clause

Amendment Proposed

20

In proposed section 32 -

(a) by deleting subsections (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 subsection (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 compensation, as defined in section 3 of the Employees’ Compensation Ordinance (Cap. 282), paid to the plaintiff

Clause

Amendment Proposed

under that Ordinance; and

(c) any contributory negligence,

that the plaintiff admits in his statement of claim.”.

22

(a) By deleting proposed 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 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 -

Clause

Amendment Proposed

(a) for an easement or licence, the rateable 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 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



Clause

Amendment Proposed

land, whichever is the least, exceeds \$240,000.”.

- (d) By deleting proposed section 39.
- (e) In proposed section 40, by deleting “and 39”.
- (f) By deleting proposed 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 as to the whole or a part of the subject matter of

Clause

Amendment Proposed

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 of First Instance; and the proceedings on the

Clause

Amendment Proposed

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.”.

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

Clause

Amendment Proposed

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

23

(a) By deleting proposed 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 section 49(7), by deleting “cannot” and substituting “shall not”.

27

By deleting proposed section 53.

30

By deleting proposed section 59A.

32

By deleting proposed 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.”.

39

By deleting the clause and substituting -

**“39. Sections added**

The following are added -

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

Clause

Amendment Proposed

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 misrepresented

Clause

Amendment Proposed

or suppressed by the Registrar.

(2) In this section -

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

40

In proposed section 72 -

(a) by deleting subsection (2)(f) and substituting -

“(f) 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

Clause

Amendment Proposed

(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.”;

(b) by deleting subsection (3).

41

By deleting the clause and substituting -

**“41. Section substituted**

Section 73A is repealed and the following substituted -

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

ClauseAmendment Proposed

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

44

By adding -

“(3) Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (Cap. 92) is amended by adding -

“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.”.”.

Schedule 1

In item 1, column 3, by deleting “where it first” and substituting “wherever”.

Schedule 2

(a) By adding –

“1A. Jury (a) Renumber section 5 as section 5(1).

Ordinanc (b) In section 5(1) (b) (i), repeal “或副司法  
e, Cap. 3 常務主任” and “或助理司法常務主任” 。

(c) Add -



Clause

Amendment Proposed

“(2) In this section -

(a) reference to “Registrar”

includes reference to the

Registrar of the District

Court;

(b) “Deputy Registrar” means

Deputy Registrar of the

High Court or the District

Court;

Clause

Amendment Proposed

(c) “Assistant Registrar”  
means Assistant Registrar  
of the High Court or the  
District Court.”.”.

(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 the paragraph as paragraph (a);

(iii) in the Chinese text, 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 the Chinese text, 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 -

ClauseAmendment Proposed

- |   |   |
|---|---|
| <p>“6A. Labour<br/>Tribunal<br/>(General)<br/>Rules, Cap.<br/>25 sub. leg.</p>                    | <p>(a) In rule 7(1) and (2), repeal<br/>“或司法常務主任”。</p> <p>(b) In rule 12(2) and (3), repeal<br/>“司法常務主任” and<br/>substitute “司法常務<br/>官”。</p> |
| <p>6B. Labour<br/>Tribunal<br/>(Forms)<br/>Rules (Cap.<br/>25 sub. leg.)</p>                      | <p>In the Schedule 6 (Forms 5 and<br/>17), repeal “區域法院司法常<br/>務主任” wherever it appears<br/>and substitute “區域法院司法<br/>常務官” . ” .</p>         |
| <p>(e) By adding -</p>  |   |
| <p>“8A. Tele-<br/>communicat<br/>ion<br/>Ordinance<br/>(Cap. 106)</p>                             | <p>In section 15(2), repeal “副司<br/>法常務主任” and substitute<br/>“副司法常務官” . ” .</p>  |
| <p>(f) In item 12, in column 3, by deleting “where it first” and<br/>substituting “wherever”.</p> |   |

Clause

Amendment Proposed

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

(h) By adding -

“39A. Estate Agents In sections 2 (in the definition (Registration of “司法常務主任” , 3(2) and Determination and (3), 4(2) and 5(2) and Schedule 1 Appeal) Regulation (Forms 1 and 2), repeal “司法 (L.N. 17 of 2000) 常務主任” wherever it appears and substitute “司法常務官” .”.