

政府總部的信頭
Letterhead of GOVERNMENT SECRETARIAT

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18 April 2000

Urgent By Fax: (2865 7546)

Mr Paul Munro
Messrs Munro, Claypole & Reeves
Rooms 812- 813
Asian House, 1 Hennessy Road,
Wanchai,
Hong Kong

Dear Mr Munro,

**District Court (Amendment) Bill 1999
Personal Injuries Claims**

Thank you for your letter of 29 November 1999.

It is suggested in the said letter that the proposed new section 32(3) of the District Court (Amendment) Bill 1999 should be amended to take into account the amount of employees' compensation paid pursuant to the Employees' Compensation Ordinance when deciding whether the District court should have jurisdiction over the case. We agree that the suggestion is in line with our objective of reducing litigation cost through encouraging more cases to flow to the District Court. The necessary legislative amendment would be incorporated into the Bill, which is now being scrutinised by a Bills Committee of the Legislative Council.

It is also suggested in the letter that consideration be given to providing in new section 32(3)(b) that any contributory negligence determined by the court, or agreed between the parties, should be taken into account in addition to any negligence admitted by the plaintiff. We have carefully examined the proposal. Our view is that where contributory negligence is agreed between the parties, it must have been admitted by the plaintiff before the commencement of an action in the District Court. The proposed section 32(3)(b) of the Bill would be applicable in such situation.

As regards contributory negligence determined by the court, we believe it highly unlikely that the court would have determined contributory negligence when the plaintiff is choosing which court to commence the proceedings. In the unlikely event that this does happen, and the plaintiff does not appeal against the determination of the court, it is most likely that the plaintiff would admit such contributory negligence when commencing his action to avoid depriving himself of the District Court's jurisdiction. In the appropriate circumstances, the Court of First Instance may also invoke the proposed section 44(3) in the Bill to order a transfer to the District Court of all or part of an action or proceeding that appears likely to be within the jurisdiction of the District Court, having taken into account contributory negligence and any other matters. Based on the above reasons, we do not consider it necessary to introduce an amendment to the proposed section 32(3)(b).

Thank you for the valuable opinion and your interest in the matter.

Yours sincerely,

(Miss Rosanna Law)
for Director of Administration

c.c. Clerk to Bills Committee
(Attn: Mrs Percy Ma)