

ITEM FOR ESTABLISHMENT SUBCOMMITTEE OF FINANCE COMMITTEE

HEAD 80 - JUDICIARY Subhead 001 Salaries

Members are invited to recommend to Finance Committee -

(a) the creation of the following new ranks in the Judiciary -

Registrar, District Court
(JSPS 11) (\$107,500 - \$113,950)

Deputy Registrar, District Court
(JSPS 10) (\$98,250 - \$104,250); and

(b) the creation of the following permanent posts in the Judiciary -

1 Registrar, District Court
(JSPS 11) (\$107,500 - \$113,950)

2 Deputy Registrar, District Court
(JSPS 10) (\$98,250 - \$104,250)

PROBLEM

The Registrar and Deputy Registrars, District Court are required to perform judicial functions under a more formalised procedural framework upon

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the commencement of the District Court (Amendment) Ordinance [Amendment Ordinance] and the new Rules of the District Court. The existing incumbents of these posts are non-judicial officers who are not suitable to take on these additional functions.

PROPOSAL

2. After a review of the statutory requirements of the Amendment Ordinance and the likely impact of its implementation on the caseload of the District Court, the Judiciary Administrator proposes, with the endorsement of the Chief Justice, Court of Final Appeal, to -

- (a) create two new ranks of Registrar, District Court (JSPS 11) and Deputy Registrar, District Court (JSPS 10) respectively; and
- (b) create one permanent post of Registrar, District Court (JSPS 11) and two permanent posts of Deputy Registrar, District Court (JSPS 10).

to strengthen the establishment of the District Court Registry to take on the judicial functions

JUSTIFICATION

Existing Arrangements

3. There are presently three non-judicial officer posts (belonging to the grade of Judicial Clerk) on the establishment of the District Court Registry, designated as Registrar, District Court and Deputy Registrars, District Court. Being not legally qualified, the incumbents are not required to discharge any judicial duties and hence cannot be designated as Masters¹. All judicial duties in the District Court Registry are currently absorbed by Judges of the District Court (District Judges) (JSPS 13) and judicial officers in the High Court Registry who are High Court Masters.

4. Under the existing arrangements, four District Judges are assigned to deal with all civil cases heard at the District Court. As there is no Master system at the District Court, these District Judges have to handle all interlocutory (pre-trial) hearings which could have been dealt with by District Court Masters

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¹ Under the Master system, a Master has the power to determine all interlocutory applications of civil cases and transact all the business and exercise the authority of a Judge in chambers.

if such a system is in place. The Judiciary Administrator estimates that the total time apportioned by the four District Judges in hearing civil cases is as follows -

- (a) four judge-days per month for issuing directions and fixing cases for trial and pre-trial reviews in unrepresented cases;
- (b) four judge-days per month on all pre-trial matters of applications for Employees' Compensation Claims;
- (c) 19 judge-days per month for handling summonses and contested distraint cases; and
- (d) the remainder of the judges' time on trials and related judicial duties including reading of bundles and preparation of judgments.

5. Similar to interlocutory hearings, taxation by appointment in the District Court has to be undertaken by judicial officers and is currently handled by the High Court Masters (there are now eight on the establishment together with three additional Deputy Masters). About a quarter of the High Court Masters' time is taken up by taxation matters which include those from the District Court, and half of which is expected to be diverted to the District Court upon implementation of the Amendment Ordinance.

District Court (Amendment) Bill 1999

6. In October 1999, the District Court (Amendment) Bill 1999 was introduced into the Legislative Council and a new set of District Court Rules was drafted to provide a comprehensive framework for civil actions involving both substantial and modest sums. The Bill was enacted on 19 May 2000. It is intended that the Amendment Ordinance and a new set of the Rules of the District Court will come into effect on 1 September 2000.

7. The commencement of the Amendment Ordinance and the District Court Rules will bring about the following major changes to the District Court -

- (a) raising its financial jurisdictional limit from \$120,000 to \$600,000;
- (b) raising the jurisdiction of recovery of land and the jurisdiction where title of land is in question from a rateable value of \$100,000 to \$240,000;
- (c) raising equity jurisdiction from \$120,000 to \$600,000 or \$3,000,000 where land is involved; and

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- (d) the introduction of a Master system in the District Court, similar to that of the High Court to deal with interlocutory matters.

Increase in Caseload

Encl. 1 8. With the increase in financial limits for the District Court, the Judiciary Administrator estimates that 50% of the cases filed, 40% of interlocutory hearings, 30% of the listed trials and 50% of taxation bills will be diverted from the Court of First Instance of the High Court to the District Court. The impact of the new limits on the caseload in the High Court, the District Court and the Small Claims Tribunal is at Enclosure 1. In estimating the projected caseload, the Judiciary has made projections on the basis of historical data available and built in appropriate assumptions where appropriate, particularly when estimating the "hidden demand", that is, cases which would otherwise not be filed but for the comparatively lower legal costs in the District Court. The projections have also taken into account the recent increase in jurisdictional limits for the Small Claims Tribunal from \$15,000 to \$50,000 implemented on 19 October 1999.

9. On the basis of the projections made, the Judiciary envisages that the total number of cases filed with the District Court Registry will increase by 20%. In addition, the number of interlocutory hearings each year will increase by 170% from 7 600 to 20 700, and using the experience in High Court proceedings, 25% of them would be contentious. It also expects that many of the diverted hearings would be more complicated than the current District Court cases. While there will be a moderate increase of 30% in the number of trials listed, cases diverted from the High Court should be more complicated and the average length of these trials should be longer.

Impact on Manpower

10. As explained in paragraph 9, we estimate that a large number of interlocutory applications will be diverted from the Court of First Instance of the High Court to the District Court upon the commencement of the Amendment Ordinance. Apart from the increase in caseload, there will be changes in procedure and rules for the District Court, which currently are suitable for simple procedures of trial without pleadings and few interlocutory applications. When compared to the Rules of the High Court, the current procedural framework of the District Court is informal. With the significant increase in the jurisdictional limits of the District Court, a more formalised procedural framework is essential, which will be provided for under the new Rules, for those claims involving a much larger amount to ensure procedural justice.

11. To meet the statutory requirements of the Amendment Ordinance, the Judiciary proposes to set up a Master system in the District Court similar to the Master system in the High Court for the proper administration of justice under the more formalised procedural framework of the District Court. As provided in the Amendment Ordinance, the Registrar, District Court who is also a District Court Master has the same power to hear and determine all interlocutory applications and transact all the business and exercise all the authority and jurisdiction that may be transacted and exercised by a District Judge in chambers. A District Court Master will vet all interlocutory applications and deal with the matter if not seriously contested or arguable, and will refer the application to a District Judge if the matter is very contentious. Acting as a District Judge in chambers, a District Court Master hears the various interlocutory applications in civil actions to ascertain and expedite their readiness for trial by a District Judge. After trial by judges, the District Court Master will also tax solicitor's bills of costs. These will be new tasks under the new civil procedural framework.

12. In sum, the judicial work of a District Court Master includes -
- (a) ex-parte application or time summonses, etc.;
 - (b) check listing after automatic directions in represented cases and directions hearing in cases where either party is unrepresented;
 - (c) Call-overs in interlocutory matters;
 - (d) Prohibition Orders, Charging Orders, Garnishee Orders,
 - (e) examination of debtors; and
 - (f) taxation by appointment.

13. In addition to performing his judicial functions as a Master, the Registrar, District Court has to undertake quasi-judicial and administrative duties which include administering the District Court Suitors' Funds and the Small Claims Tribunal Suitors' Funds and serving as secretary to the District Court Rules Committee. Given his diversified portfolio, the Judiciary considers it necessary that the Registrar should also be supported by two District Court Masters to help cope with the projected caseload for the District Court as described in paragraphs 8 to 9 above.

Registrar and Deputy Registrar, District Court

14. To ensure proper compliance with the more formalised set of court rules, we shall appoint legally qualified officers to take up the positions of one Registrar and two Deputy Registrars, District Court.

15. Taking into account the functions of the Registrar, District Court and having regard to its lower and narrower jurisdiction in judicial matters when compared to that of the Registrar, High Court (JSPS 15), the Judiciary proposes to create a new rank of Registrar, District Court and a new rank of Deputy Registrar, District Court to support the former, with the two ranks pegged at a lower level than Registrar, High Court (JSPS 15) and Senior Deputy Registrar, High Court (JSPS 14) respectively.

16. Given the need to establish the Masters Office in the District Court with a total of three posts as outlined in paragraph 13, the Judiciary proposes to create one permanent post of Registrar, District Court and two permanent posts of Deputy Registrar, District Court. The Registrar, District Court will act as leader of the Master's Office and co-ordinate and supervise the work of the two Deputy Registrars, District Court. Having regard to the comparable level of responsibilities of the post, the Judiciary proposes to peg the new post of Registrar, District Court at the same rank of Principal Adjudicator, Small Claims Tribunal (JSPS 11). As regards the rank of Deputy Registrar, District Court, considering that a Deputy Registrar has to discharge the same judicial function as a Registrar, District Court and having regard to the pay lead of Registrar, High Court over that of Senior Deputy Registrar, High Court and the pay lead of the Principal Adjudicator, Small Claims Tribunal over that of Adjudicator, Small Claims Tribunal (JSPS 10), as summarised at Enclosure 2, the Judiciary proposes to peg the rank of Deputy Registrar, District Court at the same pay scale as that of Adjudicator, Small Claims Tribunal, i.e. JSPS 10.

Encl. 2

Encls. 3
& 4

17. We set out at Enclosures 3 and 4 the job descriptions of Registrar, District Court and Deputy Registrar, District Court respectively. An organisation chart showing the position of the proposed new ranks and posts in the Judiciary is at Enclosure 5. A revised Judicial Service Pay Scale incorporating the new ranks, if approved, is at Enclosure 6.

Encl. 5

Encl. 6

Other Considerations

18. Under the new Rules of the District Court, interlocutory applications with serious arguments will continue to be heard by District Judges. In the light of the estimated number of interlocutory hearings and trials, the Judiciary estimates that four additional District Judges would be required to cope with the increase in caseload in the District Court following the commencement of the Amendment Ordinance. Instead of creating four additional permanent posts of District Judge, the Judiciary intends to re-deploy resources earmarked for the appointment of two Deputy Judges of the Court of First Instance of the High Court (Deputy CFI Judges) and two Deputy High Court Masters to help meet the

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additional requirement of the District Court, as it is anticipated that the number of cases filed with the Court of First Instance of the High Court will eventually decrease as a result of diversion of cases to the District Court.

19. The Judiciary has also examined the possibility of further trimming down the resources of the High Court but considered it not practicable. Since 1997, there has been an upsurge in the number of civil cases filed (a 44% increase in caseload in 1998 over 1997) and the number has remained at a high level. Even with a net additional three posts of High Court Masters (Deputy Registrars, High Court) created in March 1999 vide EC(98-99)25, the increase in the manpower did not match the increase in caseload. In anticipation of the enactment of the District Court (Amendment) Bill 1999, we have been coping with the increase in caseload in the High Court by the appointment of Deputy CFI Judges and Deputy High Court Masters. For the past three years, the average number of Deputy CFI Judges and Deputy High Court Masters appointed was five and three respectively. Yet the actual waiting time for civil cases filed with the High Court still far exceeded the target waiting time of 180 days. We consider it necessary therefore to maintain the staffing level of the High Court at a reasonable level so as to help reduce court waiting time.

20. Subject to Members' approval of the proposal, the Judiciary Administrator proposes to fill the post of Registrar, District Court by a Principal Magistrate (JSPS 11) and the posts of Deputy Registrar, District Court by Magistrates (JSPS 7 - 10). This is in line with the present cross posting policy of filling the post of Principal Adjudicator, Small Claims Tribunal by Principal Magistrate and posts of Adjudicator, Small Claims Tribunal and Presiding Officer, Labour Tribunal by Magistrates, so as to avoid the problems of creating a small grade and the potential difficulties in filling the posts.

FINANCIAL IMPLICATIONS

21. The additional notional annual salary cost of the proposal at MID-POINT is -

New permanent posts	\$	No. of Posts
Registrar, District Court	1,329,000	1
Deputy Registrar, District Court	2,426,400	2
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Additional cost	3,755,400	3
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22. The additional full annual average staff cost of the proposal, including salaries and staff on-cost, is \$5,987,000.

23. In addition, the proposal will necessitate the creation of eight non-directorate posts, comprising three Judicial Clerk, three Assistant Clerical Officer, one Personal Secretary II, and one Workman II, to support the three new judicial posts. The additional notional annual mid-point salary cost and full annual average staff cost of these non-directorate posts are \$1,722,960 and \$2,573,000 respectively. We shall fill the posts through internal redeployment within the Administration.

24. We have included sufficient provision in the 2000-01 Estimates to meet the cost of this proposal.

BACKGROUND INFORMATION

25. In the early 1990s, the then Chief Justice appointed a Working Party under the chairmanship of the then Mr Justice Kempster to consider and recommend amendments to the District Court Ordinance. Amongst the recommendations made by the report of the Working Party are -

- (a) to encourage a greater flow of civil work directly into the District Court by raising its financial jurisdictional limits; and
- (b) to replace the District Court Civil Procedure (General) Rules by a new set of Rules modelled on the then Rules of the Supreme Court.

26. Following Government's acceptance of the recommendations of the Working Party's report, the District Court (Amendment) Bill 1999 was introduced into the Legislative Council in October 1999 and enacted on 19 May 2000. Section 9 of the Amendment Ordinance provides that there shall be attached to the District Court a Registrar and such Deputy Registrars, and Assistant Registrars as may be appointed. Given the more formalised procedural framework in the District Court upon the implementation of the Amendment Ordinance and the new Rules of District Court, the roles of Registrar and Deputy Registrar, District Court will be undertaken by legally qualified officers. The Registrar, District Court together with his deputies will be designated as Masters when they discharge judicial duties.

27. We consulted the Legislative Council Panel on Administration of Justice and Legal Services on the above staffing proposals at its meeting on 16 May 2000. Members of the Panel were generally supportive of the proposals.

CIVIL SERVICE BUREAU COMMENTS

28. Having regard to the anticipated diversion of civil caseload from the Court of First Instance of the High Court to the District Court; the need for a Master system in the District Court to administer the new and more formalised procedural framework to ensure procedural justice; and the need to maintain staffing in the High Court at such a level as to help reduce court waiting time, Civil Service Bureau supports the creation of the new ranks of Registrar, District Court (JSPS 11) and Deputy Registrar, District Court (JSPS 10) and the creation of one Registrar, District Court and two Deputy Registrar, District Court posts. The grading and ranking of the proposed posts are considered appropriate.

ADVICE OF THE STANDING COMMITTEE ON JUDICIAL SALARIES AND CONDITIONS OF SERVICE

29. The Standing Committee on Judicial Salaries and Conditions of Service has advised that the grading proposed for the posts would be appropriate if the posts were to be created.

Judiciary
May 2000

**Impact of New Civil Jurisdictional Limits
Caseload in High Court, District Court and Small Claims Tribunal**

I. High Court

	Existing Average Caseload	Diversion to DC	Estimated New Caseload
a) Case filed ⁽¹⁾	35 000	-17 000	18 000 (-50%)
b) No. of interlocutory hearings	38 000	-15 200	22 800 (-40%)
c) No. of trials listed	1 240	-370	870 (-30%)
d) No. of taxation	3 000	-1 600	1 400 (-50%)

II. District Court

	Existing Average Caseload	Diversion to SCT or Reduced caseload	Diversion from HC	Hidden Demand	Estimated New Caseload
a) Cases filed ⁽²⁾	42 000	-10 000	17 000	2 000	51 000 (+20%)
b) No. of Interlocutory hearings	7 600	-2 500	15 200	400	20 700 (+170%)
c) No. of trials listed	630	-210	370	30	820 (+30%)
d) Total No. of Taxation	3 400	-1 100	1 600	200	4 100 (+20%)

III. Small Claims Tribunal

	Existing Average Caseload	Diversion from DC or Increased workload	Hidden Demand	Estimated New Caseload
a) Case filed	56 000	10 000	5 600	71 600 (+30%)
b) No. of pre-trial hearings	46 000	8 400	4 600	59 000 (+30%)
c) No. of trials listed	3 000	210	300	3 510 (+20%)

Notes:

- (1) These include civil appeals to Court of First Instance (CFI) from lower courts, general civil cases, personal injuries cases, cases under special lists such as admiralty, administrative law, company winding up, bankruptcy and commercial list. Probate cases are excluded.
- (2) These include general civil actions instituted, all miscellaneous proceedings, stamp appeals, Employee Compensation Claims applications and distraints. Matrimonial cases are excluded.

Pay Lead of Court Leaders

Court Leader	Rank	Pay Lead #
Registrar, High Court (JSPS 15) (\$149,600)	Senior Deputy Registrar, High Court (JSPS 14) (\$136,400 - \$144,750)	\$4,850 (3.35%)
Registrar, District Court * (JSPS 11) (\$107,500 - \$113,950)	Deputy Registrar, District Court * (JSPS 10) (\$98,250 - \$104,250)	\$3,250 (3.12%)
Principal Adjudicator, Small Claims Tribunal (JSPS 11) (\$107,500 - \$113,950)	Adjudicator, Small Claims Tribunal (JSPS 10) (\$98,250 - \$104,250)	\$3,250 (3.12%)

Explanatory notes :

* Proposed new ranks.

Pay lead means the difference between the minimum pay of the senior rank and the maximum pay of the junior rank in terms of absolute amount and percentage.

**Job Description of
Registrar, District Court**

1. Discharging judicial duties as Registrar, District Court. These include -
 - (a) Exercising the judicial functions of a District Judge in chambers including hearing and determining interlocutory applications in chambers, the only substantial exceptions being in criminal matters and in other matters which by any of the rules are required to be heard by a District Judge; exercising designated jurisdiction in open court; handling taxation of bills of costs.
 - (b) Acting as Practice Master to determine ex-parte applications and handle urgent appointments with practitioners and unrepresented litigants.
2. Discharging statutory, legal and other quasi-judicial duties as follows -
 - (a) Assisting the Chief District Judge in listing, case management and in dealing with judicial/legal matters in the criminal and civil jurisdictions of the District Court.
 - (b) Dealing with the revision, review and publication of Practice Directions of the District Court.
 - (c) Examining and commenting on draft legislation.
 - (d) Serving as administrator of the District Court Suitors' Funds and the Small Claims Tribunal Suitors' Funds.
 - (e) Approving reduction, remitting or deferring payment of fees.
 - (f) Enforcing Maintenance Orders (Reciprocal Enforcement) Ordinance.
 - (g) Providing information and assistance to District Judges, the legal profession, unrepresented persons and the public.
 - (h) Discharging the function of a commissioner for oaths.
3. Supervising the day to day operation of the District Court Registry, including the supervision of quasi-judicial duties by Deputy Registrars, District Court.
4. Assisting the Chief District Judge, in case management, including the management of cases in the Personal Injuries List and other lists as the case may be, and in developing and expanding effective case management in other areas of civil litigation.
5. Serving as Secretary of the District Court Rules Committee and representing the District Court on Committees on Law and Practice.

**Job Description of
Deputy Registrar, District Court**

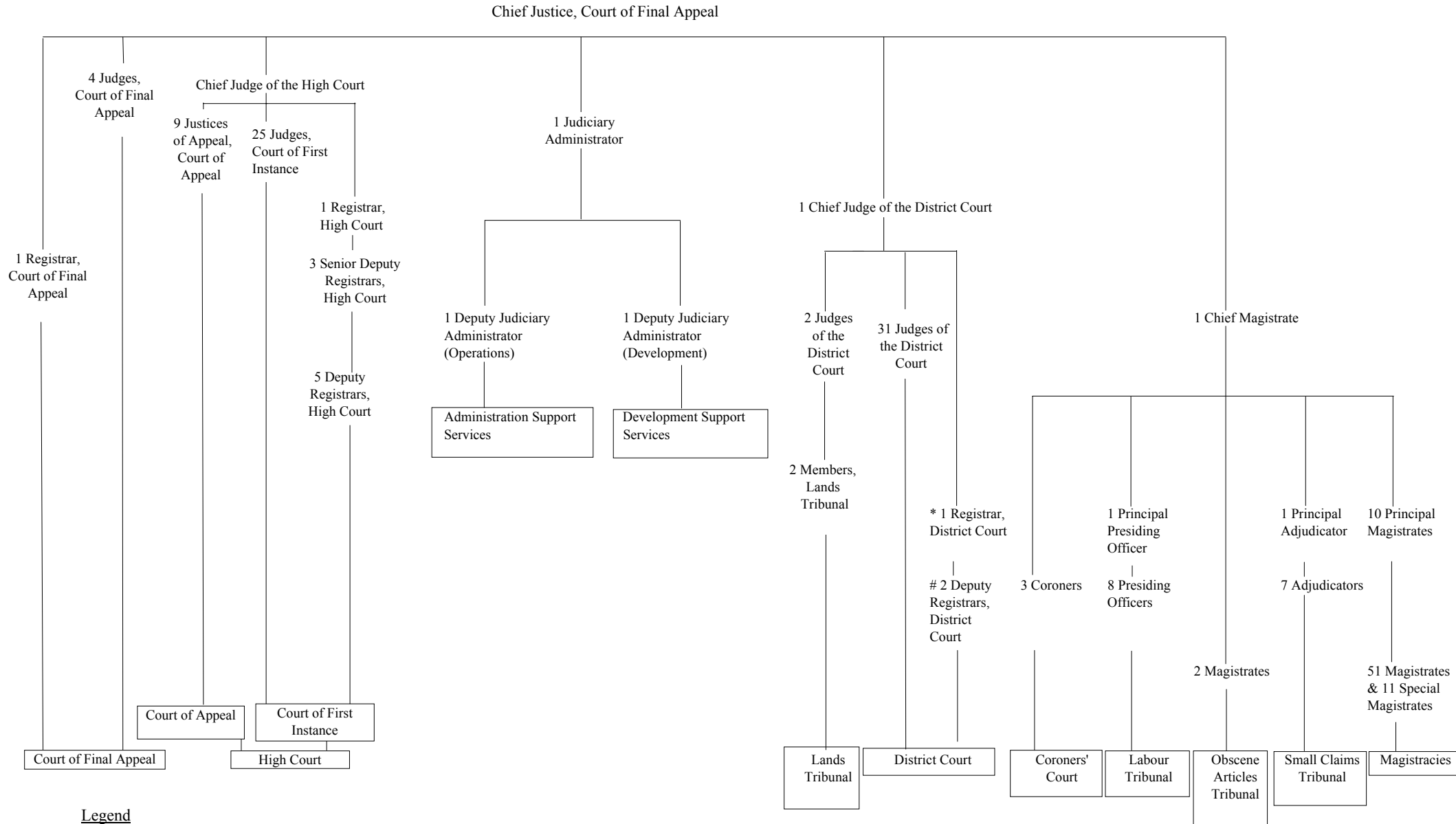
1. Discharging judicial duties by sitting as Masters. These include -
 - (a) Discharging the judicial functions which may be exercised by the Registrar, District Court;
 - (b) Hearing interlocutory and summary applications of District Court civil cases in chambers;
 - (c) Conducting examination of debtors, assessment of damages, taking of accounts and enquiries, interpleader trials;
 - (d) Acting as Practice Master; and
 - (e) Taxing bills of costs.
2. Undertaking case management work in the Personal Injuries List and in other cases of the civil jurisdiction in which effective case management will be developed.
3. Discharging quasi-judicial duties as follows -
 - (a) Assisting the Registrar, District Court in supervising the day to day operation of the District Court Registry;
 - (b) Administering suitors' funds. This includes dealing with requests and applications by parents or guardians for payment out of infant's awards; and
 - (c) Discharging the function of a commissioner for oaths.

JUDICIAL SERVICE PAY SCALE

	point	<u>Monthly salary</u> \$
Chief Justice, Court of Final Appeal	19	216,650
Judge, Court of Final Appeal)	18	210,750
Chief Judge of the High Court)		
Justice of Appeal of the Court of Appeal of the High Court	17	189,900
Judge of the Court of First Instance of the High Court	16	181,050
Chief Judge of the District Court)	15	149,600
Registrar, High Court)		
Senior Deputy Registrar, High Court	14	(144,750) (140,550) 136,400
Judge of the District Court)	13	(135,550)
Chief Magistrate)		(131,700)
Deputy Registrar, High Court)		127,900
Assistant Registrar, High Court)	12	(123,850)
Member, Lands Tribunal)		(120,250) 116,650
*Registrar, District Court)	11	(113,950)
Principal Magistrate)		(110,750)
Principal Presiding Officer, Labour Tribunal)		107,500
Principal Adjudicator, Small Claims Tribunal)		
*Deputy Registrar, District Court)	10	(104,250)
Coroner)		(101,100)
Presiding Officer, Labour Tribunal)		98,250
Adjudicator, Small Claims Tribunal)		
Magistrate)	10	(104,250)
)		(101,100)
		(98,250)
	9	(91,240)
	8	(89,110)
	7	86,980
Special Magistrate	6	(66,800)
	5	(63,700)
	4	(60,750)
	3	(59,325)
	2	(57,925)
	1	56,540

* denotes proposed new ranks

Organisation Chart of the Judiciary



Legend

* A new rank and post of Registrar, District Court proposed for creation

A new rank and 2 posts of Deputy Registrar, District Court proposed for creation