

**For discussion
on 10 November 1999**

EC(1999-2000)21

ITEM FOR ESTABLISHMENT SUBCOMMITTEE OF FINANCE COMMITTEE

HEAD 80 - JUDICIARY Subhead 001 Salaries

Members are invited to recommend to Finance Committee the creation of the following permanent post in the Judiciary -

1 Adjudicator, Small Claims Tribunal
(JSPS 10) (\$98,250 - \$104,250)

PROBLEM

The existing establishment of Adjudicator, Small Claims Tribunal (the Adjudicator) (JSPS 10) of the Judiciary is inadequate to cope with the increasing workload as a result of the raising of the financial jurisdictional limit of the Small Claims Tribunal (the Tribunal) from \$15,000 to \$50,000.

PROPOSAL

2. The Judiciary Administrator proposes, with the endorsement of the Chief Justice, Court of Final Appeal, to create a permanent post of Adjudicator (JSPS 10) in the Tribunal.

/JUSTIFICATION

JUSTIFICATION*Caseload of the Tribunal*

3. The caseload of the Tribunal has been on the increase since 1994 when the establishment of the Tribunal was last reviewed. Following the recent economic downturn, the number of claims filed in the Tribunal in 1998 has risen to 54 613, representing an increase of 32% when compared with the 41 455 cases recorded in 1994. Moreover, the total sum of claims has also increased from \$216.2 million in 1994 to \$299 million in 1998, representing a growth of 38%.

Encl.1

4. Based on the actual caseload recorded for the eight-month period from January to August 1999, the Judiciary Administrator projects that the eventual caseload for 1999 will reach 55 935, representing a further increase of 2.4% over that of 1998. We set out at Enclosure 1 the caseload statistics of the Tribunal from 1994 to 1999.

5. To address the surge in caseload in recent years, the Judiciary has introduced the following measures to improve efficiency in the Tribunal -

- (a) advancing the time of second hearing of cases from 2:00 p.m. to 1:30 p.m. so as to better utilise court time and speed up hearings or trials; and
- (b) distributing information leaflets to the public giving detailed description of the practice and procedures of the Tribunal, in the hope that as users become more familiar with the procedures, court proceedings could be conducted more smoothly and hence there will be saving on court time.

However, a recent legislative change has created additional caseload for the Tribunal and has rendered the above improvement measures inadequate.

The Small Claims Tribunal (Amendment) Ordinance 1999

6. With the enactment of the Small Claims Tribunal (Amendment) Ordinance 1999 (the Ordinance) on 25 June 1999, the financial jurisdiction of the

/Tribunal

Tribunal has been raised from \$15,000 to \$50,000 with effect from 19 October 1999. This represents a more than three-fold increase in its financial jurisdictional limit. Moreover, given that substantially lower costs would be incurred by the claimants in the Tribunal (as legal representation is not necessary in the Tribunal and hence increasing its accessibility to claimants), it has become the preferred forum for adjudication of claims. The Judiciary therefore expects that the Ordinance will bring about a significant increase in the number of claims filed in the Tribunal.

7. On the basis of the number of claims ranging from \$15,001 to \$50,000 dealt with in the District Court in 1997 and 1998, the Judiciary Administrator envisages that about 10 000 cases per annum will be transferred from the District Court to the Tribunal following the raise in the Tribunal's financial jurisdictional limit. In addition, there will be a "hidden demand", that is cases which would otherwise not be filed but for the lower legal costs in the Tribunal. The Judiciary Administrator estimates this to be 10% of the existing caseload, or 5 500 cases per annum. Projecting on this basis, the additional cases for the Tribunal arising from the increased financial jurisdiction will amount to 15 500 per annum.

Proposed Creation of a permanent post of Adjudicator

8. Given a projected caseload of 70 500 a year (i.e. 55 000 existing caseload plus 15 500 additional cases), the Judiciary Administrator considers that, even with the implementation of the improvement measures outlined in paragraph 5, the Tribunal will not be able to arrange for the case to be heard within the statutory requirement of 60 days after it is filed as stipulated in section 14(1)(a) of the Small Claims Tribunal Ordinance, Cap 338.

9. On the other hand, notwithstanding the estimated transfer of 10 000 cases per annum from the District Court to the Tribunal following the raise in the latter's financial jurisdictional limit, the Judiciary Administrator considers that re-deployment of judicial resources from the District Court to the Tribunal is not feasible in light of the anticipated increase in caseload at the District Court level arising from the District Court (Amendment) Bill 1999. The Bill, which has been introduced into the Legislative Council on 13 October 1999, provides the raising of the civil jurisdiction of the District Court by five-fold from \$120,000 to \$600,000. It will therefore generate additional caseload for the District Court.

Encl. 2
Encl. 3

10. In view of the above, the Judiciary Administrator considers it necessary to augment the establishment of the Tribunal by at least one additional full-time Adjudicator so as to enable the Tribunal to cope with the anticipated caseload of 70 500 a year and to meet the statutory requirement of hearing a case within 60 days after it is filed. Accordingly, he proposes to create one additional post of Adjudicator. We set out at Enclosure 2 the job description of the proposed post of Adjudicator. An organisation chart showing the position of the proposed post in the Judiciary is at Enclosure 3.

FINANCIAL IMPLICATIONS

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

	\$	No. of Post
New permanent post	1,213,200	1

12. The additional full annual average staff cost of the proposal, including salaries and staff on-cost, is \$1,932,900.

13. In addition, the proposal will necessitate the creation of three non-directorate posts, comprising one Senior Judicial Clerk II and two Assistant Clerical Officers, to support the additional post of Adjudicator. The additional notional annual mid-point salary cost and full annual average staff cost of these non-directorate posts are \$849,840 and \$1,332,732 respectively.

14. We have included the necessary provision in the 1999-2000 Estimates to meet the cost of this proposal.

BACKGROUND INFORMATION

15. The Tribunal was established in 1976 to provide an expeditious, informal and inexpensive means of adjudication for settlement of minor civil claims. Cases are taken by Adjudicators, without the use of lawyers on either side.

/The

The establishment of Adjudicators has remained unchanged since 1994, when a permanent post of Principal Adjudicator, Small Claims Tribunal (Principal Adjudicator) (JSPS 11) was created to be the leader of the Tribunal and offset by the deletion of one permanent Adjudicator post. In addition to assuming the role of a Tribunal leader, the Principal Adjudicator is required to sit as an Adjudicator to try cases in court. There are at present one Principal Adjudicator and six Adjudicator posts in the Tribunal.

CIVIL SERVICE BUREAU COMMENTS

16. Having regard to the increase in workload arising from the raising of the financial jurisdiction of the Tribunal, Civil Service Bureau supports the creation of a permanent post of Adjudicator in the Tribunal. The grading and ranking of the proposed post are considered appropriate.

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

17. The Standing Committee on Judicial Salaries and Conditions of Service has advised that the proposal would be appropriate if the post were to be created.

Judiciary
November 1999

Caseload of the Small Claims Tribunal (for the period from 1994 to 1999)

	1994	1995	1996	1997	1998	1999	
						Jan-August	Annual (Projected)
(1) Group Claims (Note 1)	N.A. (Note 3)	N.A. (Note 3)	24 491	25 419	38 286	24 666	36 999 (Note 4)
(2) Individual Claims (Note 2)	N.A. (Note 3)	N.A. (Note 3)	17 445	13 777	16 327	12 624	18 936 (Note 4)
Total No. of Claims filed	41 455	41 694	41 936	39 196	54 613	37 290	55 935 (Note 4)
(% Increase/Decrease from previous year)		(+0.6%)	(+0.6%)	(-6%)	(+39%)		
Total Amount of Claims (\$ million)	216.2	268.67	256	225	299	195.7	293.5 (Note4)
(% Increase/Decrease from previous year)		(+24%)	(-4.7%)	(-12%)	(+32%)		

Note 1: Group claims include cases of rates, Department of Justice cases, service charge and subscription fees etc.

Note 2: Individual claims are those filed by individuals. They are distinguished from group claims because they are usually more difficult cases. A large proportion of individual claims, contrary to group claims, are usually defended, thus requiring more time and effort for disposal by Adjudicators.

Note 3: Breakdown of caseload between group claims and individual claims not available until 1996.

Note 4: Excluding the "hidden demand" referred to in paragraph 7 of the paper.

**Job Description of
Adjudicator, Small Claims Tribunal**

1. Undertaking judicial duties by sitting as Adjudicator, Small Claims Tribunal.
2. Undertaking case management work of the Small Claims Tribunal.
3. Assisting the Principal Adjudicator, Small Claims Tribunal, when required, on the review of legislation and procedures affecting the Small Claims Tribunal.

Checklist for Issue of ESC Items

**Proposed Creation of A Permanent
Post of Adjudicator, Small Claims Tribunal**

(a) Necessity to go to ESC

Creation of a permanent directorate post requires the endorsement of FC/ESC.

(b) Authority

With the endorsement of the Chief Justice of the Court of Final Appeal, the Judiciary Administrator considers it necessary to create 1 additional post of Adjudicator, Small Claims Tribunal in the Judiciary. The proposal has the support of the Secretary for the Civil Service.

(c) Funding

Funding for the Adjudicator post was supported in the 1996 Resource Allocation Exercise.

(d) Political Assessment

We envisage that the proposal is not controversial and should be supported by Members.

(e) Consultation with LegCo Panel

When the Small Claims Tribunal (Amendment) Bill 1999 was introduced into the LegCo in mid-June 1999, the LegCo had been briefed on its manpower implications. We therefore do not consider it necessary to consult the LegCo Panel in this case.

(f) Lobbying Requirement

The Judiciary Administrator will lobby individual LegCo Members to solicit support for the proposal.

(g) Fallback Option

If Members express reservation about the proposal, we will withdraw the paper and re-submit at a later meeting.

(h) Attendance at the ESC Meeting

Mr Wilfred Tsui, Judiciary Administrator
Mrs Betty Chu, Judiciary Secretary

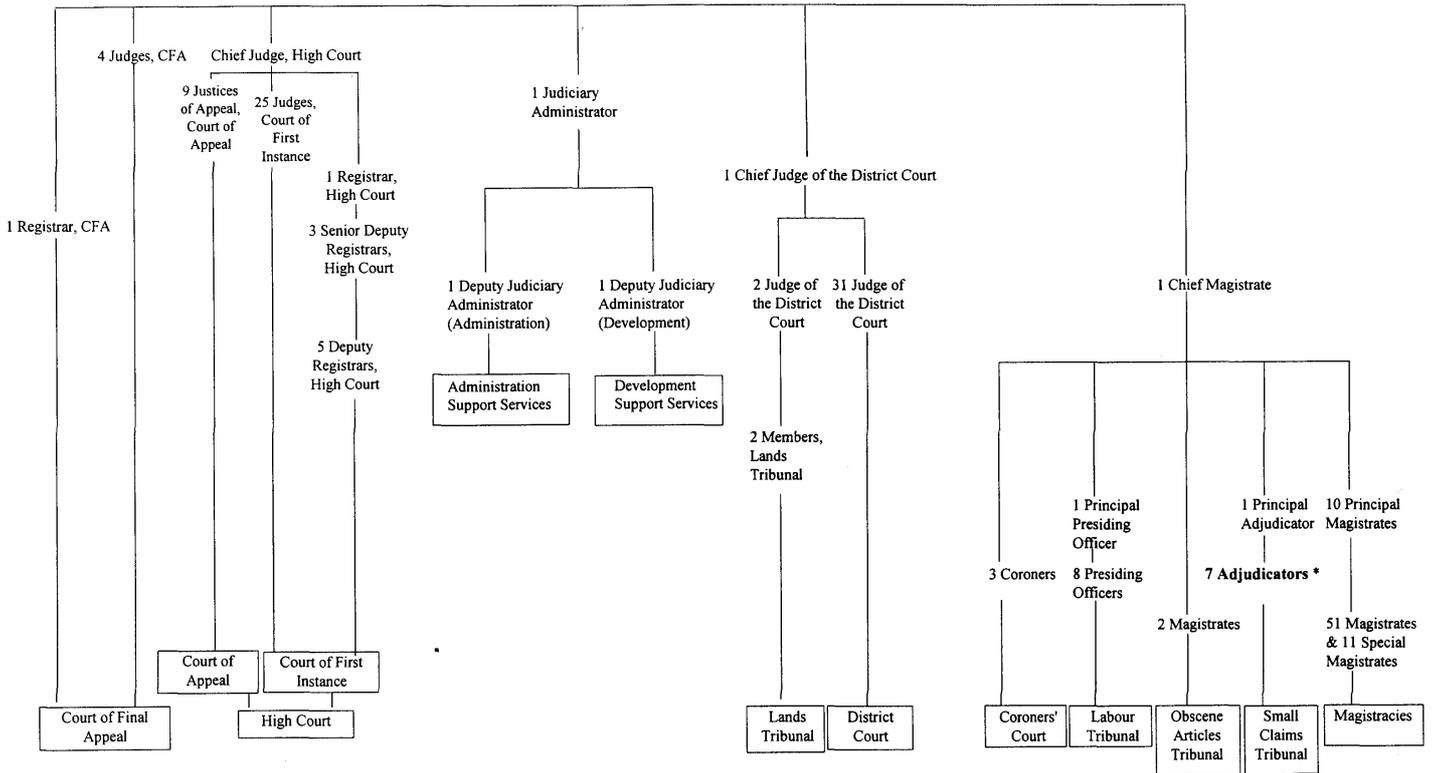
(i) Special Consideration

The Small Claims Tribunal (Amendment) Ordinance 1999, enacted on 25 June 1999, has come into operation on 19 October 1999. It is therefore necessary for the proposal to go to ESC now to strengthen the manpower of the Small Claims Tribunal to cope with the increasing caseload.

**Judiciary
October 1999**

Organisation Chart of the Judiciary

Chief Justice, Court of Final Appeal



Legend

* Include 1 permanent post of Adjudicator, Small Claims Tribunal proposed for creation