

For discussion
on 31 March 2003

**Paper for the Panel on
Administration of Justice and Legal Services**

Review of the Civil Jurisdictional Limits of the District Court

1. Background

- 1.1 With effect from September 2000, the general financial limit of the civil jurisdiction of the District Court was increased from \$120,000 to \$600,000. The financial limits for cases on recovery of and title to land was adjusted to a rateable value of \$240,000, which then covered domestic properties with a capital value of about \$6 million. In line with the increase for the general financial jurisdiction, the limit for equity jurisdiction, where land is not involved, was raised accordingly to \$600,000. The equity jurisdiction where land is involved was raised to \$3 million.
- 1.2 At the same time, a new set of the Rules of the District Court was introduced and a new Master system was set up with a view to improving the operation of the District Court, thereby enabling more civil cases to be heard in the District Court and reducing the litigation costs for the parties involved.
- 1.3 The Judiciary has undertaken to review the operation of the District Court after the new jurisdictional limit had come into effect in September 2000. The Judiciary has been monitoring the implementation of the new jurisdictional limit closely, and has been providing the AJLS Panel of the LegCo with progress reports regularly since May 2001.
- 1.4 In 2000, the Judiciary has also indicated that subject to the review at para.1.3, the general financial limit of the District Court should be increased to \$1 million in two years' time.

2. Recommendations

- 2.1 The Judiciary has now completed the review at para.1.3. It is recommended that the financial limit of the civil jurisdiction of the District Court should be further increased to \$1 million.
- 2.2 It is also recommended that the current limits for land matters and equity jurisdiction where land is involved should be kept. The limit for equity jurisdiction, where land is not involved, should be raised correspondingly to \$1 million.
- 2.3 It is further recommended that the current financial limit of the Small Claims Tribunal should be maintained at \$50,000.
- 2.4 Subject to the approval of the Legislative Council, it is proposed that the new jurisdictional limits may take effect on 1 September 2003.

3. The Review

- 3.1 The review covers two full-year periods after the new financial limits of the District Court had come into effect, i.e. from 1 September 2000 to 31 August 2002.
- 3.2 Factors to be taken into account in the review include:
 - (a) The impact on demand for court services from the last increase and any proposed further increase;
 - (b) The pattern in costs of litigation;
 - (c) The resource implications for the Judiciary in the light of the last increase and any proposed further increase; and
 - (d) The development of qualified judges and judicial officers to cope with the last increase and any further increase in civil jurisdictional limits.
- 3.3 Figures are set out below dealing with the picture in the High Court and the District Court before and after the last increase in jurisdictional limits on 1 September 2000. It must be borne in mind that there are numerous variables which have an impact on these figures, apart from the last increase in jurisdictional

limits. For example, general economic and business conditions which may affect the number of cases filed and going to trial respectively and the complexity of cases.

4. Demand for Court Services

Annex I

(A) Before and after the last increase in civil jurisdictional limits of the District Court in 2000 [Table at Annex I]

4.1 The new financial limits of the District Court were implemented in September 2000. The demand for court services before and after September 2000 in the **High Court** is as follows:

(a) Cases Filed

- (i) The average number of cases filed (for the two full year periods) remains at the level of about 35,000, about 3% above the number of cases filed in the 12-month period preceding September 2000, i.e. the new financial limit of the District Court came into effect.
- (ii) There is a significant drop in average caseload in general civil actions (about 62% below the number of such cases filed in the 12-month period preceding September 2000), and there is also a decrease of about 26% for certain types of applications for Miscellaneous Proceedings (e.g. mortgage claims). The decrease for Personal Injury (PI) actions amounts to about 35%.
- (iii) But there is a huge upsurge of caseload in other civil cases, mostly bankruptcy cases. In September 2000, bankruptcy cases stood at 3,806. In September 2002, such cases surge to the level of 19,960, representing an increase of 424%.

(b) Interlocutory Hearings

- (i) The average number of interlocutory hearings listed stays at the level of about 48,100, about 5% more than that in the 12-month period preceding September 2000.
- (ii) There is a significant drop in the average number of interlocutory hearings listed for general civil actions, i.e. 43%. The decrease in the average number of interlocutory hearings listed for applications for Miscellaneous Proceedings is 17%. The decrease in the average number of interlocutory hearings listed for PI actions are smaller, i.e. 11%.
- (iii) The decrease in workload at (ii) above has been offset by the huge upsurge in the average number of interlocutory hearings listed for other cases (particularly in the areas of bankruptcy and company winding-up), i.e. 112%.

(c) Trials

- (i) The average number of trials listed drops by about 17% to the level of 660 when compared to that in the 12-month period preceding September 2000.
- (ii) The decrease in the average number of trials listed for general civil actions is 19%. The picture is very different for applications for Miscellaneous Proceedings, i.e. an increase of 34% for trials listed. There is a marked decrease in the average number of trials listed for PI cases, i.e. 31%.
- (iii) As regards other civil actions, there is no increase in the average number of trials listed despite the huge increase in caseloads for cases filed and interlocutory hearings listed.

(d) Taxation Hearings

- (i) The average number of taxation hearings listed drops by about 15% to the level of about 1,550 when compared to that in the 12-month period preceding September 2000. With the introduction of the Master system in the District Court, the High Court masters are relieved of the workload in relation to the District Court. (See para. 4.2 (d) below)
- (ii) There is a similar decrease in the average number of taxation hearings listed for general civil actions, i.e. 15%. There is however an increase in the figures for applications for Miscellaneous Proceedings, i.e. 14%. For PI actions, there is a decrease of 29%.
- (iii) There is an increase in the average number of taxation hearings listed for other civil actions, i.e. 18%.

4.2 For the **District Court**, the demand for court services before and after September 2000 is as follows:

(a) Cases Filed

- (i) The average number of cases filed annually in the 2 full year periods from 1 September 2000 to 31 August 2002 stays at about 34,200, representing a slight drop of 6% when compared to the 12-month period preceding September 2000.
- (ii) The average number of general civil actions decreases by 12%. However, it should be noted that leaving aside the Inland Revenue Department (IRD) cases over which the District Court has exclusive jurisdiction, the average number of general civil actions rises from 2,706 to 8,970, a more than three-fold increase. The overall drop is therefore attributed to a 46%

decrease in the average number of cases filed for IRD cases.

(b) Interlocutory Hearings

- (i) The average number of interlocutory hearings listed increases to the level of about 11,000, i.e. about 180% above those of the 12-month period preceding September 2000 respectively.
- (ii) There are increases in the average number of interlocutory hearings for general civil actions, miscellaneous proceedings and other cases.

(c) Trials

- (i) The average number of trials listed also increases to the level of 660, about 50% above that of the 12 month-period preceding September 2000.
- (ii) There are increases in the average number of trials listed for general civil actions, and other cases.

(d) Taxation Hearings

- (i) Before the introduction of the Master system, taxation hearings which had to be handled by judicial officers were done by Masters in the High Court. No direct comparison can therefore be made before and after September 2000.
- (ii) The average number of all taxation hearings listed stays at about 420.

(B) Proposed further increase in civil jurisdictional limits of the District Court to \$1 million [Table at Annex II]

Annex II

- 4.3 Barring unforeseen circumstances and on the assumption that the other categories of cases not affected by the

increase in the District Court's civil jurisdiction remain at the same level, possible impact on the demand for court services for the **High Court** is set out below :

- (a) The number of cases filed may further decrease to the level of 33,300, about 5% below the average number of cases filed in the period under review;
- (b) The number of interlocutory hearings listed may further decrease by about 5% to the levels of 45,600;
- (c) The number of trials listed may further drop by about 9% to the level of 600; and
- (d) The number of taxation hearings listed may further drop by about 4% to the levels of 1,530.

4.4 As for the **District Court**, it is anticipated that:

- (a) The number of cases filed may further increase by about 5% to the level of 35,700;
- (b) The number of interlocutory hearings listed may further increase by about 22% to the levels of 13,400;
- (c) The number of trials listed may further increase by about 9% to the levels of 720; and
- (d) The number of taxation hearings listed may further increase by about 17% to the level of 490.

4.5 As far as the demand for court services under the proposed further increase in jurisdictional limit to \$1 million is concerned, the estimated new caseloads for the District Court should be manageable.

5. Pattern of Costs of Litigation

5.1 A survey has been done to look at the taxed bills filed in the District Court for the period under review. For the High Court, reference is made to the findings derived from the Cost Survey conducted in connection with the study under the Civil Justice Reform.

5.2 The ratio of the median total costs claimed to the median amount recovered (i.e. judgment sum) for cases with an amount recovered between \$120,000 and \$600,000 in the District Court is 53%. It is similar to the ratio of 52% for the High Court for the same banding when this was within the High Court jurisdiction.

5.3 But in absolute terms, the District Court's costs are significantly lower than those in the High Court. For cases with amount recovered between \$120,000 and \$600,000, our surveys show:

	Median Total Costs Claimed (\$)	Median Total Costs Allowed (\$)	Median Profit Costs Claimed (\$)	Median Profit Costs Allowed (\$)	Median Taxation Costs Claimed (\$)	Median Taxation Costs Allowed (\$)
High Court (X)	119,400	81,800	100,700	58,800	18,900	9,400
District Court (Y)	95,664	56,818	74,151	36,123	11,235	6,355
Percentage Difference (X-Y)/X	20%	31%	26%	39%	41%	32%

5.4 It is confirmed that costs of litigation in the District Court are about one-third lower than those in the High Court. From this angle, it would be beneficial to court users if their civil cases are heard in the District Court.

6. Resource Implications for the Judiciary

6.1 Barring unforeseen circumstances, it is expected that there may not be significant change in the overall caseloads for both the High Court and the District Court as a result of further increasing the civil jurisdictional limits of the District Court to \$1 million. Therefore, it should not give rise to any overall additional resource implications merely because of the proposed further increase in financial limit of the civil jurisdiction of the District Court.

6.2 There would, however, be resource implications between the two levels of courts. Consideration would be given to re-deploying resources within the Judiciary to meet with the

anticipated demand for court services at both the High Court and the District Court. In the course of consideration, one should not lose sight of the fact that the caseload of the High Court has steadily increased over the last decade (from 1991 to 2000). The greatest increase (coinciding with the Asian financial crisis) was in 1998 and 1999. The number of cases filed in 1999 was actually at the highest level for the decade.

- 6.3 As cases and applications vary in their complexity and nature, any overall reduction in number as projected in this exercise does not necessarily and correspondingly reduce the overall workload on the High Court. The increase in complexity of cases is reflected in longer hearing time for the cases. For example, the average number of sitting days per case listed in the High Court has increased from 1.93 in 1999 to 3.47 in 2002, an increase of 80%.
- 6.4 The demand for court services for the High Court is also affected by other factors such as the prevailing economic situation. For example, the High Court Masters currently undertake a considerable number of uncontested self bankruptcy cases (re. paras. 4.1(a)(iii) and 4.1(b)(iii)). The papers submitted in each petition have to be approved by the Masters before hearing. The sheer volume of the cases makes this a time-consuming job. When a petition for self bankruptcy is opposed by a creditor, the contested petition has to be adjourned by a Master to a Judge for hearing.
- 6.5 Therefore, the aspect of resource implications has to be considered in a broader context.

7. Development of Judges and Judicial Officers in Civil Matters

- 7.1 Since September 2000, 3 District Judges with experience in civil matters (1 from within the Judiciary and 2 from the Bar) were appointed. The 3 Masters are drawn from the Judicial Officers with experience in the Small Claims Tribunal and the Labour Tribunal.
- 7.2 The Judicial Studies Board has so far organised 4 seminars for District Judges and Deputy Judges. The topics are civil procedure, personal injuries, land law, and unfair and

unconscionable contracts. District Judges who have deputised in the Court of First Instance and gained extensive civil experience have returned to the District Court and others are given acting opportunities. Further, since August 2000, the District Judges and Masters of the District Court have conducted no less than 10 seminars for the practitioners on the civil procedure of the District Court.

- 7.3 Continuous development and training programme in civil matters will be organized for Judges and Judicial Officers.

8. Other Related Matters

(A) Lands Matters and Equity Jurisdictions

- 8.1 The financial limits of jurisdiction for recovery of land and where title comes into question for the District Court were adjusted from \$100,000 to \$240,000 on 1 September 2000. This was because a rateable value of \$240,000 would cover domestic properties with a capital value of about \$6 million at that time.
- 8.2 The equity jurisdiction for the District Court was also adjusted from \$120,000 to \$600,000 (in respect of non-land proceedings) or \$3 million (for proceedings where land is involved) in September 2000. The figure of \$3 million was adopted having regard to the value of an average small/medium residential property in Hong Kong at that time.
- 8.3 According to the statistics supplied by the Rating and Valuation Department, there had been a cumulative decrease of 13% in the rateable value of the properties in Hong Kong in the 3 years' period from 1 April 1999 to 31 March 2002. Further, the Government Economist advised that per capita GDP had fallen by a total of about 4% in money terms in the same period.
- 8.4 By reason of the aforesaid, the land-related and equity jurisdiction of the District Court has, in real terms, been increased after 1 September 2000, as more properties now fall within such jurisdiction of the District Court.

8.5 In the light of the above, it seems that further increases in such jurisdictional limits are not justified, and it is therefore recommended that the existing financial limits for the land-related and equity jurisdiction where land is involved should remain unchanged. In line with the proposed increase for the general financial jurisdiction, the limit for equity jurisdiction, where land is not involved, should be raised accordingly to \$1 million.

(B) Financial limits of the Small Claims Tribunal

8.6 The financial limits of the Small Claims Tribunal (SCT) was increased from \$15,000 to \$50,000 on 19 October 1999. The caseload for the SCT had also increased from 57,442 in 1999 to 90,815 in 2002, an increase of 58%.

8.7 In view of the significant and continual increase of caseload for the SCT in recent years, and in the light of the deflationary trend (see para. 8.3), it is not recommended that we should further increase the jurisdictional limit of the SCT for the time being.

9. Implementation

9.1 The proposed further increase of financial limit of civil jurisdiction of the District Court can be done by resolution of the LegCo under section 73A of the District Court Ordinance.

10. Advice Sought

10.1 Comments and views on the recommendations as summarized in paragraph 2 are sought.

Table 1 Demand for Court Services Before and After the Last Increase in Civil Jurisdictional Limits of the District Court in 2000

I High Court

	Existing Caseload			(A)	(B)
	(I) 1.9.1999 - 31.8.2000	(II) 1.9.2000 - 31.8.2001	(III) 1.9.2001 - 31.8.2002	Average caseload of (II) & (III)	% change between (A) and (I)
1. Cases filed					
1.1 General Civil Action	14,426	5,847	4,986	5,417	-62%
1.2 Miscellaneous Proceedings					
(a) Mortgage claims	5,169	4,363	3,271	3,817	-26%
(b) Other MP cases	2,117	2,517	2,125	2,321	10%
1.3 Personal Injuries	1,667	1,089	1,065	1,077	-35%
1.4 Other cases *	10,416	15,421	29,178	22,300	114%
1.5 All cases	33,795	29,237	40,625	34,931	3%
2. Interlocutory hearings listed					
2.1 General Civil Action	21,632	13,333	11,131	12,232	-43%
2.2 Miscellaneous Proceedings	8,715	7,771	6,680	7,226	-17%
2.3 Personal Injuries	3,388	2,873	3,163	3,018	-11%
2.4 Other cases *	12,083	16,158	35,023	25,591	112%
2.5 All interlocutory hearings listed	45,818	40,135	55,997	48,066	5%
3. Trials listed					
3.1 General Civil Action	346	282	275	279	-19%
3.2 Miscellaneous Proceedings	68	122	60	91	34%
3.3 Personal Injuries	186	128	130	129	-31%
3.4 Other cases *	199	182	149	166	-17%
3.5 All trials listed	799	714	614	664	-17%
4. Taxation listed					
4.1 General Civil Action	698	694	485	590	-15%
4.2 Miscellaneous Proceedings	217	279	214	247	14%
4.3 Personal Injuries	743	634	426	530	-29%
4.4 Other cases *	159	195	179	187	18%
4.5 All taxation listed	1,817	1,802	1,304	1,553	-15%

* Other civil cases refer to Bankruptcy proceedings, Companies winding-up proceedings, Administrative law and other proceedings, Application for Interim order (Bankruptcy) and Applications to set aside statutory demand, Admiralty actions, Bill of sale registration, Book debt registrations, Commercial actions, Construction and Arbitration cases, Matrimonial causes, Adoption cases and Stop notices.

II District Court

	Existing Caseload			(A)	(B)
	(I) 1.9.1999 - 31.8.2000	(II) 1.9.2000 - 31.8.2001	(III) 1.9.2001 - 31.8.2002	Average caseload of (II) & (III)	% change between (I) and (A)
1. Cases filed					
1.1 General Civil Action					
(a) IRD cases	19,361	9,105	11,634	10,370	-46%
(b) Non-IRD cases	2,706	9,598	8,340	8,969	231%
<i>Total</i>	<i>22,067</i>	<i>18,703</i>	<i>19,974</i>	<i>19,339</i>	<i>-12%</i>
1.2 Miscellaneous Proceedings					
(a) Mortgage claims	-	741	734	738	-
(b) Other MP cases	3,153	3,205	3,302	3,254	3%
1.3 Personal Injuries	-	361	420	391	-
1.4 Other cases [#]	10,957	9,187	11,718	10,453	-5%
1.5 All cases	36,177	32,197	36,148	34,173	-6%
2. Interlocutory hearings listed					
2.1 General Civil Action	2,560	7,282	8,380	7,831	206%
2.2 Miscellaneous Proceedings	862	2,019	1,947	1,983	130%
2.3 Personal Injuries	-	287	500	394	-
2.4 Other cases [#]	575	808	822	815	42%
2.5 All interlocutory hearings listed	3,997	10,396	11,649	11,023	176%
3. Trials listed					
3.1 General Civil Action	316	460	473	467	48%
3.2 Miscellaneous Proceedings	3	3	3	3	0%
3.3 Personal Injuries	-	21	46	34	-
3.4 Other cases [#]	115	138	176	157	37%
3.5 All trials listed	434	622	698	660	52%
4. Taxation listed					
4.1 General Civil Action	-	136	296	216	-
4.2 Miscellaneous Proceedings	-	3	11	7	-
4.3 Personal Injuries	-	19	59	39	-
4.4 Other cases [#]	-	155	158	157	-
4.5 All taxation listed	-	313	524	419	-

[#] Other civil cases refer to Distress for Rent, Employee's Compensation, Stamp (Ordinance) appeals, Equal opportunities actions, Occupational deafness (Compensation) appeals, Pneumoconiosis (Compensation) appeals, Estate agents appeals.

**Assessment of the Impact of the further increase in civil jurisdictional limit
of the District Court to \$1 million on Demand for Court Services**

I. High Court

	Approx. Average Caseload for the two-year period (1.9.2000 – 31.8.2002)	Possible Impact as a result of further increasing District Court's jurisdictional limit to \$1M	Estimated new caseload for High Court	% Change
1. Cases filed	35,000	1,700	33,300	-5%
2. Interlocutory hearings listed	48,000	2,400	45,600	-5%
3. All trials listed	660	60	600	-9%
4. All taxation listed	1,600	70	1,530	-4%

II. District Court

	Approx. Average Caseload for the two-year period (1.9.2000 – 31.8.2002)	Possible Impact as a result of further increasing District Court's jurisdictional limit to \$1M	Estimated new caseload for District Court	% Change
1. Cases filed	34,000	1,700	35,700	+5%
2. Interlocutory hearings listed	11,000	2,400	13,400	+22%
3. All trials listed	660	60	720	+9%
4. All taxation listed	420	70	490	+17%

