

**立法會**  
***Legislative Council***

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**Paper for the House Committee meeting  
on 8 June 2018**

**Report of the Subcommittee on  
Proposed Resolutions under the District Court Ordinance and  
the Small Claims Tribunal Ordinance**

**Purpose**

This paper reports on the deliberations of the Subcommittee on Proposed Resolutions under the District Court ("DC") Ordinance and the Small Claims Tribunal ("SCT") Ordinance.

**Background**

2. In 2015-2016, the Judiciary conducted a review of the civil jurisdictional limits of DC and SCT set out respectively in Part 4 of the District Court Ordinance (Cap. 336) ("DCO") and the Schedule to the Small Claims Tribunal Ordinance (Cap. 338) ("SCTO").<sup>1</sup> Having regard to a host of factors, such as the significant increase in the civil caseload of the Court of First Instance of the High Court ("CFI"), the enhancement of DC's capabilities to handle cases with higher claim amounts, enhancing access to justice by the public, possible impact on demand for and operation of court services, changes in economic indicators, etc., the Judiciary proposed the following adjustments to the civil jurisdictional limits of DC and SCT:

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<sup>1</sup> The last review of the civil jurisdictional limits of DC and SCT was conducted in 2003. As a result of the review, the general financial limit and the limit of the equity jurisdiction where land is not involved of DC was increased from \$600,000 to \$1 million in 2003 while the limits for land matters and equity jurisdiction where land is involved of DC and the jurisdictional limit of the SCT were kept unchanged.

<b>Types of jurisdictional limit</b>	<b>Current limit</b>	<b>Proposed limit</b>
<b>District Court Ordinance (Cap. 336)</b>		
(a) General financial limit of civil jurisdiction of DC under sections 32(1) and (3) <sup>2</sup> , 33(1)(b) <sup>3</sup> and 52(1)(a) and (d) <sup>4</sup> of DCO	\$1 million	\$3 million
(b) Financial limit of civil jurisdiction of DC for land matters (in terms of the annual rent or the rateable value or the annual value of the land) under sections 35, 36(a) and (b), 37(4) <sup>5</sup> , 69B(1) <sup>6</sup> and 52(1)(c) <sup>7</sup> of DCO	\$240,000	\$320,000
(c) Limit for the equity jurisdiction of DC where the proceedings do not involve or do not relate to land under section 37(2)(i), (ii) and (iv) of DCO	\$1 million	\$3 million
(d) Limit for the equity jurisdiction of DC where the proceedings involve or relate to land under section 37(2)(iii) and (iv) of DCO	\$3 million	\$7 million
<b>Small Claims Tribunal Ordinance (Cap. 338)</b>		
(e) General financial limit of civil jurisdiction of SCT under paragraphs 1 and 2(b) of the Schedule to SCTO	\$50,000	\$75,000

According to the Judiciary, the proposed adjustments would allow better distribution of cases among CFI, DC and SCT, and enhance access to justice for the public through the comparatively lower litigation costs in DC and SCT.

<sup>2</sup> Jurisdictional limit in respect of actions founded on contract, quasi-contract and tort and proceedings by way of interpleader.

<sup>3</sup> Jurisdictional limit in respect of actions for the recovery of money recoverable by enactment.

<sup>4</sup> Jurisdictional limit in respect of granting injunctions and making declarations of right in all matters affecting movable property and in all matters of contract not falling within section 52(1)(a), (b) or (c) of DCO.

<sup>5</sup> Sections 35, 36(a) and (b) and 37(4) of DCO relate to jurisdictional limit in respect of actions for the recovery of land and actions relating to the title to an interest in land.

<sup>6</sup> Jurisdictional limit in respect of relief against forfeiture by re-entry for non-payment of rent.

<sup>7</sup> Jurisdictional limit in respect of granting injunctions and making declarations of right in all matters affecting immovable property.

3. The Chief Secretary for Administration ("CS") has given notice to move, at the Legislative Council ("LegCo") meeting of 21 March 2018, two motions under section 73A of DCO and section 6 of SCTO respectively to seek LegCo's approval to increase the civil jurisdictional limits of DC and SCT set out in paragraph 2. The proposed resolutions, if approved, will come into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.

### **The Subcommittee**

4. At the House Committee ("HC") meeting on 16 March 2018, Members agreed to form a subcommittee to study the proposed resolutions. At HC's request, CS withdrew his notice for moving the motions at the Council meeting of 21 March 2018 to allow time for the Subcommittee to study in detail the proposed resolutions. Under the chairmanship of Hon Holden CHOW, the Subcommittee held two meetings with the Administration. The membership list of the Subcommittee is in **Appendix I**.

### **Deliberations of the Subcommittee**

#### Magnitude of the proposed increase in the jurisdictional limit of SCT

5. Some members are of the view that the proposed increase in SCT's jurisdictional limit from \$50,000 at present to \$75,000 is minimal, and suggest the Administration to consider increasing the limit from \$50,000 to \$100,000. They have pointed out that SCT provides a less costly avenue for litigants to resolve civil disputes involving lower claim amounts because no legal representation is allowed. A further increase in SCT's jurisdictional limit to \$100,000 will allow SCT to handle more cases with lower claim amounts which may otherwise not be pursued by parties if they have to file such cases at DC where litigation costs are higher. This will in turn help further enhance access to justice.

6. The Administration considers it inappropriate to revise the proposed SCT's jurisdictional limit from \$75,000 to any other level without going through detailed analysis, proper procedures and consultation. It has explained that in assessing the impact arising from the jurisdictional rise on SCT, the Judiciary was mindful of the impact arising from suppressed demand, greater claim amounts and higher complexity of cases to be filed with SCT, and the lack of legal representation in SCT. After conducting a detailed and objective analysis into a host of factors, the Judiciary put forth the current proposal which has received general support from all stakeholders in the public consultation

exercise conducted by the Judiciary. Moreover, the Judiciary has assessed and secured additional financial and manpower resources, court facilities, and arranged training for staff, etc. on the basis of the proposed \$75,000 limit. Any changes to the current proposal should only be made after going through a fresh round of detailed analysis on the impact on the operation of SCT and comprehensive consultation. This will inevitably delay the implementation of jurisdictional rise and will not be in the interests of the community as a whole in terms of enhancing access to justice. To address members' concern, the Judiciary has undertaken to closely monitor the statistics on SCT's caseload and the actual operational impact on SCT for two years upon implementation of the proposed \$75,000 limit, and conduct a review thereafter on the need to further adjust SCT's jurisdictional limit, including the scenario of setting the limit at \$100,000.

7. After consideration of the Administration's explanation, some members have agreed that the Judiciary should adopt the proposed \$75,000 limit as a start and report to Members the outcome of the review mentioned by the Administration in due course. In addition, as it has been a very long time since the last review of SCT's jurisdictional limit in 2003, members consider it necessary to conduct future reviews at a shorter interval. Hon James TO, however, maintains his view that SCT's jurisdictional limit should be increased from \$50,000 at present to \$100,000 to further enhance access to justice. He considers that his proposal will not result in a significant change in SCT's overall caseload. He has pointed out that SCT's average waiting time from the filing of a claim to the date of the first hearing was 35 days and 34 days in 2015 and 2016 respectively, while the target waiting time is 60 days. This indicates that SCT still has spare capacity to handle more claim cases. Moreover, the additional resources secured will enable SCT to flexibly deploy its manpower to meet relevant operational needs.

#### Proposed mechanism for transfer of civil cases from DC to SCT

8. Some members have enquired whether the Judiciary will establish a mechanism for transfer of civil cases of claim amount between \$50,001 and \$75,000 which have already been filed into DC before the proposed resolutions come into operation from DC to SCT.

9. The Judiciary has explained that in line with the arrangements for previous adjustments of civil jurisdictional limits, civil cases with claim amount between \$50,001 and \$75,000 which have been filed into DC before the commencement of the proposed jurisdictional rise of SCT will continue to be dealt with by DC after the proposed resolutions come into operation. However, should the plaintiff wish to have the case heard in SCT, he may consider discontinuing the claim in DC and lodge a new claim in SCT, subject to

considerations such as limitation of actions<sup>8</sup> and costs. Furthermore, to facilitate court users to make informed decisions (and to seek legal advice as appropriate) on how their cases (whether pending disposal or involving new claims to be lodged) should proceed at the court and tribunal concerned, the Judiciary will publicize the intended commencement date of the jurisdictional rise through various means such as press releases, notices at court buildings and on the Judiciary's website. The Judiciary has further advised that in any event, section 73A of DCO provides for the amendment only to the amounts set out in the relevant provisions of DCO by resolution of the LegCo, while section 6 of SCTO provides for the amendment only to the jurisdiction of SCT to hear and determine claims. Any proposed mechanism for transfer of civil cases of claim amount between \$50,001 and \$75,000 from DC to SCT will involve providing power to DC to transfer cases commenced therein to SCT, as well as related matters, such as how the costs incurred in DC before the transfer and the costs of the transfer should be dealt with. Such mechanism will cover issues beyond the scope of power provided under section 73A of DCO and section 6 of SCTO, and therefore falls outside the scope of the proposed resolutions.

#### Additional resources

10. Another area of concern is whether DC and SCT will have the necessary manpower to cope with the projected increase in caseloads after the jurisdictional rise. The Administration has advised that nine Judges and Judicial Officers ("JJOs") posts (including four District Judges, three Deputy Registrars, DC, and two Adjudicators, SCT) and 23 non-directorate civil service posts for supporting JJOs have been created to cope with the projected increase in caseloads at DC and SCT. The LegCo Finance Committee has approved the creation of nine JJO posts, and the Judiciary has been provided with the corresponding financial resources for meeting in full the manpower needs from 2017-2018.

#### Proposed inclusion of the amendment to the civil jurisdictional limit of DC for costs-only proceedings in the proposed resolution under DCO

11. Members note that following the gazettal of the Statute Law (Miscellaneous Provision) Bill 2017 on 20 April 2018, DC's jurisdictional limit for costs-only proceedings<sup>9</sup> as stipulated in section 53A(5) of DCO can also be amended by resolution of the LegCo. To tie in with the proposed increase in the general civil jurisdictional limit of DC from \$1 million to \$3 million, the

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<sup>8</sup> For example, actions founded on simple contract or on tort shall not be brought after the expiration of 6 years from the date on which the cause of action accrued under section 4 of the Limitation Ordinance (Cap. 347).

<sup>9</sup> Costs-only proceedings were introduced by the Civil Justice Reform in 2008 to allow parties to a proceeding who have settled all issues in dispute, except the amount of costs, to seek an order of the court on costs only.

Judiciary has proposed to include the amendment to DC's jurisdictional limit for costs-only proceedings stipulated in section 53A(5) of DCO from \$1 million to \$3 million in the proposed resolution under section 73A of DCO.

### **Recommendation**

12. The Subcommittee raises no objection to the proposed inclusion of the amendment mentioned in paragraph 11 above and notes that the Administration will give fresh notice for moving the motions to seek LegCo's approval of the proposed resolutions. The Subcommittee will not propose any amendment, but notes that Hon James TO may propose amendments to the proposed resolution under SCTO to amend SCT's civil jurisdictional limit of \$50,000 to \$100,000. The Administration has subsequently advised that it will give notice to move the proposed resolutions in **Appendix II** at the Council meeting of 27 June 2018.

### **Advice sought**

13. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 4  
Legislative Council Secretariat  
6 June 2018

## **Appendix I**

### **Subcommittee on Proposed Resolutions under the District Court Ordinance and the Small Claims Tribunal Ordinance**

#### **Membership list**

**Chairman**      Hon Holden CHOW Ho-ding

**Members**      Hon James TO Kun-sun  
Hon WONG Ting-kwong, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Steven HO Chun-yin, BBS  
Hon Dennis KWOK Wing-hang  
Dr Hon Junius HO Kwan-yiu, JP  
Hon Vincent CHENG Wing-shun, MH

(Total : 8 Members)

**Clerk**              Ms Angel WONG

**Legal Adviser**   Miss Rachel DAI

**District Court Ordinance****Resolution of the Legislative Council**

Resolution made and passed by the Legislative Council under section 73A of the District Court Ordinance (Cap. 336) on 2018.

**Resolved that—**

- (a) the District Court Ordinance (Cap. 336) be amended as set out in the Schedule; and
- (b) this Resolution is to come into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.

**Schedule****Amendments to District Court Ordinance**

1. **Section 32 amended (general jurisdiction in actions of contract, quasi-contract and tort)**
  - (1) Section 32(1)—  
**Repeal**  
“\$1,000,000”  
**Substitute**  
“\$3,000,000”.
  - (2) Section 32(3)—  
**Repeal**  
“\$1,000,000”  
**Substitute**  
“\$3,000,000”.
2. **Section 33 amended (money recoverable by enactment)**  
Section 33(1)(b)—  
**Repeal**  
“\$1,000,000”  
**Substitute**  
“\$3,000,000”.
3. **Section 35 amended (jurisdiction for recovery of land)**  
Section 35—  
**Repeal**



“\$240,000”

**Substitute**

“\$320,000”.

**4. Section 36 amended (jurisdiction where title in question)**

(1) Section 36(a)—

**Repeal**

“\$240,000”

**Substitute**

“\$320,000”.

(2) Section 36(b)—

**Repeal**

“\$240,000”

**Substitute**

“\$320,000”.

**5. Section 37 amended (equity jurisdiction)**

(1) Section 37(2)(i)—

**Repeal**

“\$1,000,000”

**Substitute**

“\$3,000,000”.

(2) Section 37(2)(ii)—

**Repeal**

“\$1,000,000” (wherever appearing)

**Substitute**

“\$3,000,000”.

(3) Section 37(2)(iii)—

**Repeal**

“\$3,000,000”

**Substitute**

“\$7,000,000”.

(4) Section 37(2)(iv)—

**Repeal**

“\$3,000,000”

**Substitute**

“\$7,000,000”.

(5) Section 37(2)(iv)—

**Repeal**

“\$1,000,000”

**Substitute**

“\$3,000,000”.

(6) Section 37(4)—

**Repeal**

“\$240,000”

**Substitute**

“\$320,000”.

**6. Section 52 amended (extension of jurisdiction to grant injunctions and to make declarations)**

(1) Section 52(1)(a)—

**Repeal**

“\$1,000,000”

**Substitute**

“\$3,000,000”.

- (2) Section 52(1)(c)—

**Repeal**

“\$240,000”

**Substitute**

“\$320,000”.

- (3) Section 52(1)(d)—

**Repeal**

“\$1,000,000”

**Substitute**

“\$3,000,000”.

**7. Section 53A amended (costs-only proceedings)**

Section 53A(5)—

**Repeal**

“\$1,000,000”

**Substitute**

“\$3,000,000”.

**8. Section 69B amended (relief against forfeiture by re-entry for non-payment of rent)**

Section 69B(1)—

**Repeal**

“\$240,000”

**Substitute**

“\$320,000”.

Clerk to the Legislative Council

2018

**Explanatory Note**

This Resolution raises the upper financial limits on the civil jurisdiction of the District Court in certain matters.

## Small Claims Tribunal Ordinance

### Resolution of the Legislative Council

Resolution made and passed by the Legislative Council under section 6 of the Small Claims Tribunal Ordinance (Cap. 338) on 2018.

**Resolved that—**

- (a) the Small Claims Tribunal Ordinance (Cap. 338) be amended as set out in the Schedule; and
  - (b) this Resolution is to come into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.
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## Schedule

### Amendments to Small Claims Tribunal Ordinance

**1. Schedule amended (jurisdiction of tribunal)**

- (1) The Schedule, paragraph 1—

**Repeal**

“\$50,000”

**Substitute**

“\$75,000”.

- (2) The Schedule, paragraph 2(b)—

**Repeal**

“\$50,000”

**Substitute**

“\$75,000”.

Clerk to the Legislative Council

2018

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**Explanatory Note**

This Resolution raises the upper financial limits on the civil jurisdiction of the Small Claims Tribunal in certain matters.