

立法會 *Legislative Council*

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

Background brief

Purpose

This paper provides background information on the proposed resolutions under the District Court Ordinance (Cap. 336) ("DCO") and the Small Claims Tribunal Ordinance (Cap. 338) ("SCTO") to increase the civil jurisdictional limits of the District Court ("DC") and the Small Claims Tribunal ("SCT"). It also summarizes the major views and concerns expressed by Legislative Council ("LegCo") Members during previous discussions on this subject.

Background

Recent review of the civil jurisdictional limits of the District Court and the Small Claims Tribunal

2. Following its review of the civil jurisdictional limits of DC and SCT, the Judiciary proposed the following adjustments to the various jurisdictional limits of DC and SCT ("the proposal") for public consultation in 2015-2016:

Types of jurisdictional limit	Current limit	Proposed limit
(a) General financial limit of civil jurisdiction of DC under sections 32(1) and (3) ¹ , 33(1)(b) ² and 52(1)(a) and (d) ³ of DCO	\$1 million	\$3 million

¹ Jurisdictional limit in respect of actions founded on contract, quasi-contract and tort and proceedings by way of interpleader.

² Jurisdictional limit in respect of actions for the recovery of money recoverable by enactment.

³ 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.

Types of jurisdictional limit	Current limit	Proposed limit
(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) ⁴ , 69B(1) ⁵ and 52(1)(c) ⁶ 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
(e) General financial limit of civil jurisdiction of SCT under paragraphs 1 and 2(b) of the Schedule to SCTO	\$50,000	\$75,000

3. According to the LegCo Brief provided by the Administration Wing, Chief Secretary for Administration's Office and the Judiciary Administration in February 2018, the Hong Kong Bar Association and The Law Society of Hong Kong were generally supportive of the proposal. In the review, a number of factors had been taken into consideration including the significant increase in the civil caseload of the Court of First Instance of the High Court ("CFI") in recent years, the enhancement of DC's capabilities to handle cases with higher claim amounts and the changes in economic indicators after the last review in 2003. The Judiciary also considered that increase in the jurisdictional limits of DC and SCT would allow better distribution of cases among CFI, DC and SCT, and enhance access to justice for public through the comparatively lower litigation costs at DC and SCT. The caseloads of CFI, DC and SCT between 2006 and 2016 are tabulated in **Appendix I**.

Previous reviews of the civil jurisdictional limits of the District Court

4. With effect from September 2000, the general financial limit of the civil jurisdiction of DC was increased to \$600,000; the financial limits for cases on

⁴ 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.

⁵ Jurisdictional limit in respect of relief against forfeiture by re-entry for non-payment of rent.

⁶ Jurisdictional limit in respect of granting injunctions and making declarations of right in all matters affecting immovable property.

recovery of and title to land was adjusted to a rateable value of \$240,000; the limit for equity jurisdiction, where land is not involved, was raised accordingly to \$600,000 in line with the general financial limit; and the equity jurisdiction where land is involved was raised to \$3 million.

5. The civil jurisdictional limits of DC were reviewed again in 2003 after a review of the DC operation was conducted following the new jurisdictional limits in paragraph 4 above that had come into effect in 2000. The 2003 review resulted in an increase of the general financial limit to the current level of \$1 million and, in line with that, an increase of the limit for equity jurisdiction where land is not involved to the current level of \$1 million accordingly, while the limits for land matters and equity jurisdiction where land is involved were kept unchanged. The civil jurisdictional limits of DC are set out in Part 4 of DCO.

Previous review of the jurisdictional limit of the Small Claims Tribunal

6. According to section 5 and the Schedule of SCTO, SCT handles cases with a claim amount of not more than \$50,000. The present limit was set in 1999. In the same review for the DC limits in 2003 as mentioned in paragraph 5 above, it was decided that the SCT limit be maintained.

Proposed resolutions under the District Court Ordinance and the Small Claims Tribunal Ordinance

7. The Administration has given notice to move, at the 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 according to the proposal in paragraph 2 above.

Major views and concerns of Members

8. A Council question about the jurisdictional limit of SCT was raised in 2017. At its meeting on 24 April 2017, the Panel on Administration of Justice and Legal Services ("the Panel") was consulted on the content of the proposed increases in the civil jurisdictional limits of DC and SCT. The major views and concerns of Members are summarized in the ensuing paragraphs.

Magnitude of increase in the jurisdictional limit of the Small Claims Tribunal

9. At the LegCo meeting on 15 February 2017, a Member raised a question on the financial limit of claims of SCT. Owing to the public's concern that the existing limit of \$50,000 was set in 1999 and that the amount involved

in civil dispute had increased substantially since then, the Member asked whether the Administration would consider setting a higher financial limit of claims, say \$100,000.

10. At its meeting on 24 April 2017, the Panel raised no objection to the proposed increase in the jurisdictional limit of SCT from \$50,000 to \$75,000. Notwithstanding this, some members enquired whether there would be room to further increase the limit of SCT to a higher limit, say \$100,000. There was also a view that the Judiciary should keep statistics for the cases for which the claim amount was exactly \$75,000 (i.e. the jurisdictional limit after the implementation of the proposed increase).

11. In reply, the Judiciary Administration advised that, in considering the proposed increase in jurisdictional limit for SCT, a basket of factors had been taken into account. Further, as there might be suppressed demand arising from cases which would otherwise not commence if not for the lower litigation costs to be incurred in SCT, the Judiciary Administration considered it prudent to adjust the new limit for SCT to \$75,000.

Deployment of additional resources for Judges and Judicial Officers

12. In the aforesaid Council question, the Member also asked whether more resources would be allocated to SCT, when necessary, to ensure that its efficiency in handling claims would not be reduced owing to an increase in the number of cases being handled following the rise in jurisdictional limits for SCT.

13. At the Panel meeting, some members also expressed concerns whether the caseload which would be transferred from CFI to DC following the proposed adjustments would have impacts on the resources as well as the workload of Judges and Judicial Officers ("JJOs") in DC and SCT.

14. The Judiciary Administration replied that they had assessed that DC would be able to handle the changes brought about by the proposed adjustments with resources commensurate with the workload. As regards the workload of JJOs, the Judiciary Administration advised that the creation of additional Adjudicator posts for SCT, the availability of additional space and new facilities in the West Kowloon Law Courts Building, and the additional professional and clerical support to be provided to JJOs would help ease JJOs' workload in DC and SCT.

15. On 1 December 2017, the Finance Committee approved the creation of nine JJO posts (including four District Judges, three Deputy Registrars, DC, and two Adjudicators, SCT). To cope with increases in caseload at DC and SCT, creation of 23 non-directorate civil service posts for supporting JJOs was also

required. The Administration had provided the Judiciary with the financial resources for meeting in full the manpower needs from 2017-2018.

Other concerns relating to the civil jurisdictional limits of the District Court and the Small Claims Tribunal

16. A member of the Panel pointed out that the last review on the jurisdictional limits of DC and SCT was conducted in 2003. He therefore requested and the Judiciary Administration agreed that this subject matter should be reviewed regularly and more frequently in future though no definite timeframe had been set.

17. There was an enquiry about how legal costs could be lowered following the proposed adjustments to the civil jurisdictional limits of DC and SCT. The Judiciary Administration replied that after the proposed adjustments, certain cases were expected to be transferred from the High Court to DC and some from DC to SCT. As a result, more cases could be handled at DC and SCT at lower costs. Hence, the proposed increases in jurisdictional limits would help enhance the proportionality between the amount claimed and the legal costs.

18. Some members of the Panel indicated that members of the public often encountered difficulties in seeking the enforcement of judgments ordered by SCT. As execution matters were handled by DC, they urged the Judiciary to consider exploring the feasibility of the provision of "one-stop service" by SCT in a quick and less costly manner.

Latest development

19. At the meeting held on 16 March 2018, the House Committee agreed to form a subcommittee to study the proposed resolutions under DCO and SCTO. At the request of the House Committee, the Administration has withdrawn the notice to move the motion mentioned in paragraph 7 above.

Relevant papers

20. A list of relevant papers is in **Appendix II**.

**Caseloads of the Court of First Instance of the High Court,
the District Court and the Small Claims Tribunal between 2006 and 2016**

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Court of First Instance of the High Court											
- criminal jurisdiction											
• criminal cases	264	312	311	425	444	482	486	571	545	503	497
• confidential miscellaneous proceedings	59	56	64	64	96	100	158	326	346	402	405
• appeals from Magistrates' Courts	1 238	1 234	1 125	1 043	980	897	862	809	771	777	702
- civil jurisdiction	20 736	20 657	21 514	26 564	16 581	15 966	17 212	18 573	19 367	19 885	19 467
Sub-total	22 297	22 259	23 014	28 096	18 101	17 445	18 718	20 279	21 029	21 567	21 071
- probate cases	15 298	13 483	13 339	14 676	14 350	16 319	16 308	16 967	17 931	19 127	18 368
Total	37 595	35 742	36 353	42 772	32 451	33 764	35 026	37 246	38 960	40 694	39 439
District Court											
- criminal cases	1 199	1 240	1 250	1 449	1 404	1 396	1 207	1 190	1 079	1 118	1 215
- civil cases	30 948	28 820	28 527	27 329	23 260	22 394	20 847	20 636	20 639	20 346	21 902
- family cases	18 544	18 131	18 364	19 616	21 218	22 989	23 674	23 392	22 416	21 834	22 297
Total	50 691	48 191	48 141	48 394	45 882	46 779	45 728	45 218	44 134	43 298	45 414
Small Claims Tribunal	76 925	68 797	59 246	59 797	57 837	50 962	48 201	48 982	50 083	49 775	49 169

Source: Website of the Joint Secretariat for the Advisory Bodies on Civil Service and Judicial Salaries and Conditions of Service
http://www.jssc.gov.hk/en/publications/reports_jscs.htm [Accessed April 2018].

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

List of relevant papers

Date of meeting	Meeting	Minutes/Paper	LC Paper No.
31.3.2003	Panel on Administration of Justice and Legal Services	Judiciary Administration's paper on review of the civil jurisdictional limits of the District Court	CB(2)1607/02-03(01) http://www.legco.gov.hk/y r02-03/english/panels/ajls/papers/aj0331cb2-1607-1e.pdf
		Minutes of meeting	CB(2)2064/02-03 http://www.legco.gov.hk/y r02-03/english/panels/ajls/minutes/aj030331.pdf
--	Panel on Administration of Justice and Legal Services	Response of the Hong Kong Bar Association to the Administration's paper on review of the financial limits of the civil jurisdiction of the District Court	CB(2)1955/02-03(01) http://www.legco.gov.hk/y r02-03/english/panels/ajls/papers/aj0331cb2-1955-1e.pdf
		Judiciary Administrator's reply letter dated 16 May 2003 to the Bar Association on review of the financial limits of the civil jurisdiction of the District Court	CB(2)2124/02-03(01) http://www.legco.gov.hk/y r02-03/english/panels/ajls/papers/aj0331cb2-2124-1e.pdf
15.2.2017	Council Meeting	Hon Holden CHOW Ho-ding raised a question on financial limit of claims of Small Claims Tribunal	http://www.info.gov.hk/gia/general/201702/15/P2017021500550.htm

Date of meeting	Meeting	Minutes/Paper	LC Paper No.
24.4.2017	Panel on Administration of Justice and Legal Services	Judiciary Administration's paper on review of the civil jurisdictional limits of the District Court and the Small Claims Tribunal	CB(4)817/16-17(05) https://www.legco.gov.hk/yr16-17/english/panels/ajls/papers/ajls20170424cb4-817-5-e.pdf
		Judiciary Administration's follow-up paper	CB(4)1037/16-17(01) https://www.legco.gov.hk/yr16-17/english/panels/ajls/papers/ajls20170424cb4-1037-1-e.pdf
		Minutes of meeting	CB(4)75/17-18 https://www.legco.gov.hk/yr16-17/english/panels/ajls/minutes/ajls20170424.pdf
--	--	Legislative Council Brief	File Ref: CSO/ADM CR 8/3221/93 https://www.legco.gov.hk/yr17-18/english/subleg/brief/sc104_brf.pdf
16.3.2018	House Committee	Legal Service Division Report	LS41/17-18 https://www.legco.gov.hk/yr17-18/english/hc/papers/hc20180316ls-41-e.pdf