

## LEGISLATIVE COUNCIL BRIEF

District Court Ordinance (Cap. 336)

### RESOLUTION OF THE LEGISLATIVE COUNCIL (COMMENCEMENT) NOTICE

Small Claims Tribunal Ordinance (Cap. 338)

### RESOLUTION OF THE LEGISLATIVE COUNCIL (COMMENCEMENT) NOTICE

## SMALL CLAIMS TRIBUNAL (FEES) (AMENDMENT) RULES 2018

### INTRODUCTION

The Chief Justice (“CJ”) has appointed 3 December 2018 as the day on which the two Resolutions made and passed by the Legislative Council (“LegCo”) on 27 June 2018 and published in the Gazette as Legal Notice No. 131 and No. 132 of 2018 (“the Resolutions”) shall come into operation to effect the increases of the civil jurisdictional limits of the District Court (“DC”) and the Small Claims Tribunal (“SCT”). The relevant commencement notices are at **Annexes A and B** (“the Commencement Notices”).

2. Separately, in exercise of the power under section 36 of the Small Claims Tribunal Ordinance (Cap. 338) (“SCTO”), the CJ has made the Small Claims Tribunal (Fees) (Amendment) Rules 2018 (“the Amendment Rules”) at **Annex C** to prescribe the fees payable for filing of claims at the SCT up to the new civil jurisdictional limit of \$75,000. This is a consequential amendment arising from the implementation of the abovementioned Resolution passed by the LegCo amending the jurisdictional limit of the SCT.

### BACKGROUND

3. On 27 June 2018, the Resolutions were made and passed by LegCo under section 73A of the District Court Ordinance (Cap. 336)

(“DCO”) and section 6 of the SCTO respectively to adjust the civil jurisdictional limits of the DC and the SCT as follows –

- (a) increasing the general financial limit of the civil jurisdiction of the DC from \$1 million to **\$3 million**;
- (b) increasing the financial limit for land matters of the DC from \$240,000 to **\$320,000** in terms of the annual rent or the rateable value or the annual value of the land;
- (c) increasing the limit for the equity jurisdiction of the DC where the proceedings do not involve or relate to land from \$1 million to **\$3 million**;
- (d) increasing the limit for the equity jurisdiction of the DC where the proceedings wholly involve or relate to land from \$3 million to **\$7 million**; and
- (e) increasing the limit for the SCT from \$50,000 to **\$75,000**.

## **JUSTIFICATIONS**

### *The Commencement Notices*

4. Under paragraph (b) of the Resolutions, the Resolutions are to come into operation on a day to be appointed by CJ by notice published in the Gazette. CJ has appointed 3 December 2018 as the commencement date of the Resolutions to effect the revised civil jurisdictional limits of the DC and the SCT.

### *The Amendment Rules*

5. Item 1 of the Schedule to the Small Claims Tribunal (Fees) Rules (Cap. 338B) (“SCT(F)R”) currently stipulates different levels of fees for filing of claims by parties at the SCT based on four tiers of claim amounts (“the four bands of fees”), with the maximum claim amount of \$50,000, being the present jurisdictional limit of the SCT. Following the increase of the SCT’s jurisdictional limit from \$50,000 to \$75,000, the maximum claim amount currently stipulated in item 1 of the Schedule to the SCT(F)R needs to be correspondingly increased from \$50,000 to \$75,000.

6. In the last revision of the SCT’s jurisdictional limit from \$15,000 to \$50,000 in 1999, apart from adjusting the maximum claim amount stipulated in item 1 of the Schedule to the SCT(F)R to align with the jurisdictional limit of the SCT, the range of claim amount stipulated in the four bands of fees were also adjusted upwards by the same percentage so as to maintain the fee structure. In the present amendment exercise, the Judiciary has adopted the same approach and proposed amending the range of claim amount in the four bands of fees based on the percentage increase of the SCT’s jurisdictional limit so that the overall fee structure would not be affected by this consequential amendment arising from the change in the SCT’s jurisdictional limit. The existing fee amount for each fee band would remain unchanged.

7. The Amendment Rules and the Resolution amending the jurisdictional limit of the SCT from \$50,000 to \$75,000 will come into operation on the same date (i.e. 3 December 2018).

### **THE AMENDMENT RULES**

8. The Amendment Rules at Annex C adjust the range of claim amount under the four bands of fees as stipulated in item 1 of the Schedule to the SCT(F)R upward by a percentage which corresponds with the percentage increase in the SCT’s jurisdictional limit. The existing fee amount for each band would remain unchanged. The amendments are as follows –

<b>Current range of claim amount under the four bands of fees</b>	<b>Revised range of claim amount under the four bands of fees</b>	<b>Fee (\$)</b>
where the claim does not exceed \$3,000	for a claim that does not exceed \$5,000	20
where the claim exceeds \$3,000 but does not exceed \$17,000	for a claim that exceeds \$5,000 but does not exceed \$25,000	40
where the claim exceeds \$17,000 but does not exceed \$33,000	for a claim that exceeds \$25,000 but does not exceed \$50,000	70
where the claim exceeds \$33,000 but does not exceed \$50,000	for a claim that exceeds \$50,000 but does not exceed \$75,000	120

The existing provisions of SCT(F)R being amended are at Annex D.

## **LEGISLATIVE TIMETABLE**

9. The legislative timetable is as follows –

Publication of the Commencement Notices and the Amendment Rules in the Gazette	6 July 2018
Tabling at LegCo for negative vetting	11 July 2018
Commencement	3 December 2018

## **IMPLICATIONS OF THE AMENDMENT RULES**

10. The Amendment Rules are in conformity with the Basic Law, including the provisions concerning human rights, and will not affect the current binding effect of the SCTO and its subsidiary legislation. They have no civil service, economic, productivity, environmental, sustainability, competition, family or gender implications. On financial implication, the proposal may entail a net decrease in revenue of the Judiciary, but the impact is expected to be minimal.

## **PUBLIC CONSULTATION**

11. The Amendment Rules are technical consequential amendments arising from the implementation of the increase in the jurisdictional limit of the SCT, which was generally supported by the Hong Kong Bar Association, the Law Society of Hong Kong and the LegCo Panel on Administration of Justice and Legal Services, and passed by the LegCo on 27 June 2018.

## **PUBLICITY**

12. The Commencement Notices and the Amendment Rules will be published in the Gazette on 6 July 2018. A press release will be issued on the same day. A spokesperson will be available for answering media enquiries.

## **ENQUIRIES**

13. For enquiries on this brief, please contact Mr David Lau, Assistant Judiciary Administrator (Development) 2, at 2867 5203.

**Judiciary Administration**  
**July 2018**

**District Court Ordinance**

**Resolution of the Legislative Council (Commencement)  
Notice**

Under paragraph (b) of the Resolution made and passed by the Legislative Council under section 73A of the District Court Ordinance (Cap. 336) on 27 June 2018 and published in the Gazette as Legal Notice No. 131 of 2018, I appoint 3 December 2018 as the day on which the Resolution comes into operation.



Chief Justice

29th June 2018

**Small Claims Tribunal Ordinance**

**Resolution of the Legislative Council (Commencement)  
Notice**

Under paragraph (b) of the Resolution made and passed by the Legislative Council under section 6 of the Small Claims Tribunal Ordinance (Cap. 338) on 27 June 2018 and published in the Gazette as Legal Notice No. 132 of 2018, I appoint 3 December 2018 as the day on which the Resolution comes into operation.



Chief Justice

29th June 2018

**Small Claims Tribunal (Fees) (Amendment) Rules 2018**

(Made by the Chief Justice under section 36 of the Small Claims Tribunal Ordinance (Cap. 338))

Chief Justice

29th June 2018

**1. Commencement**

These Rules come into operation on the day on which the Resolution made and passed by the Legislative Council under section 6 of the Small Claims Tribunal Ordinance (Cap. 338) on 27 June 2018 and published in the Gazette as Legal Notice No. 132 of 2018 comes into operation.

**2. Small Claims Tribunal (Fees) Rules amended**

The Small Claims Tribunal (Fees) Rules (Cap. 338 sub. leg. B) are amended as set out in rule 3.

**3. Schedule amended (fees)**

The Schedule—

**Repeal item 1**

**Substitute**

“1. Filing of a claim—	
for a claim that does not exceed \$5,000.....	20
for a claim that exceeds \$5,000 but does not exceed \$25,000 .....	40
for a claim that exceeds \$25,000 but does not exceed \$50,000 .....	70
for a claim that exceeds \$50,000 but does not exceed \$75,000 .....	120”



**Explanatory Note**

The Legislative Council has passed a Resolution on 27 June 2018 to raise the upper limits on the civil jurisdiction of the Small Claims Tribunal in certain matters from \$50,000 to \$75,000.

2. These Rules made consequential adjustments to item 1 of the Schedule to the Small Claims Tribunal (Fees) Rules (Cap. 338 sub. leg. B).

Cap. 338B

SMALL CLAIMS TRIBUNAL  
(FEES) RULES

12/01/2001

**SCHEDULE**

[rule 2]

FEES

Item	Particular	Fee \$
<b>Filing of Claim and Summons</b>		
1.	Filing of claim—	
	where the claim does not exceed \$3,000 .....	20
	where the claim exceeds \$3,000 but does not exceed \$17,000 .....	40
	where the claim exceeds \$17,000 but does not exceed \$33,000 .....	70
	where the claim exceeds \$33,000 but does not exceed \$50,000 ( <i>28 of 1999 s. 18</i> ) .....	120