

LEGISLATIVE COUNCIL BRIEF

District Court Ordinance (Cap. 336)
Small Claims Tribunal Ordinance (Cap. 338)

RESOLUTIONS OF THE LEGISLATIVE COUNCIL ON JURISDICTIONAL LIMITS OF THE DISTRICT COURT AND THE SMALL CLAIMS TRIBUNAL

INTRODUCTION

Under section 73A of the District Court Ordinance (Cap. 336) (“DCO”) and section 6 of the Small Claims Tribunal Ordinance (Cap. 338) (“SCTO”), the civil jurisdictional limits of the District Court (“DC”) and the Small Claims Tribunal (“SCT”) can be amended by resolution of the Legislative Council (“LegCo”). It is proposed that the Resolutions at Annexes A and B be passed to increase the civil jurisdictional limits of the DC and the SCT, thereby allowing better distribution of cases among the Court of First Instance of the High Court (“CFI”), the DC and the SCT, and enhance access to justice for the public.

JUSTIFICATIONS

2. In 2015-16, the Judiciary conducted a review of the civil jurisdictional limits of the DC and the SCT, and proposed the following adjustments –

- (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**.

Jurisdictional limits of the DC

A. Recent caseload trends

3. Over the recent few years, the total caseload of the CFI and the DC taken together has largely been stable (with 39 800 cases in 2010 and 41 300 cases in 2016, representing a moderate increase of about 4% over six years). For the CFI, the number of civil cases filed was on the rise from 15 900 in 2011 to 19 400 in 2016, with an aggregate increase of about 22%. At the same time, there was a slight drop of about 2% in the total number of civil cases filed in the DC from 22 400 in 2011 to 21 900 in 2016.

4. During the said period, the increase in the CFI caseload was particularly significant in respect of mortgage cases¹, personal injuries (“PI”) cases and other civil actions² (these three types of cases represented about 29% of the total caseload of the CFI in 2016). These cases increased as a total from 3 300 in 2011 to 5 600 in 2016, representing an accumulative increase as high as 70%.

5. Such increases in CFI cases can be attributed to many factors, for example, changes in economic and business conditions over the years. The resultant effect is that the CFI, which already has a heavy workload, is further stretched to handle the additional cases. If the existing DC’s jurisdictional limits are increased, the DC would be able to handle some of the cases of claim amounts exceeding the current jurisdictional limits. This would help ease the pressure on the CFI, and in turn enable the CFI Judges to concentrate on handling civil cases of higher claim amounts,

¹ Mortgage claims generally refer to actions by a mortgagee or mortgagor or any person having the right to foreclose or redeem any mortgage to claim reliefs such as payment of moneys secured by the mortgage and sale of the mortgaged property, etc.

² Other civil actions refer to civil proceedings for assessing whether the Defendant should have civil liability in cases on debt due, breach of contract, landlord and tenant lawsuits, etc.

thereby facilitating the development of the jurisprudence for more complex civil cases.

B. Developments of the DC since the last review

6. Since the last review of the jurisdictional limits of the DC in 2003, there have been further developments at the DC –

- (a) the DC has built up substantial experience in handling more substantive civil litigations. There is an experienced District Judge assisted by dedicated Masters to take charge of the PI list in the DC, which helps facilitate the conduct of the proceedings for PI cases;
- (b) since 2000, a system has been established for the Registrar and Deputy Registrars (known as “Masters”) of the DC to be filled by judicial officers who could exercise certain judicial functions, such as handling interlocutory applications, thereby enhancing the handling of civil cases in the DC;
- (c) the DC’s civil procedure rules have been revamped, making the civil practices and procedures of the DC largely comparable to those of the CFI; and
- (d) the Judiciary has made on-going efforts to enhance judicial skills and knowledge of the Judges and Judicial Officers (“JJOs”), including those in the DC. The establishment of the Judicial Institute in 2013 has further strengthened such efforts.

7. The above initiatives have well equipped JJOs of the DC with the necessary skills and knowledge to handle any additional cases with higher claim amounts offloaded to it from the CFI following the increases in its jurisdictional limits.

C. Enhancing access to justice

8. Since the legal costs for CFI cases are in general higher than those of the DC, a proposed increase in the DC’s jurisdictional limits will enable more litigants to file their claims (especially PI and mortgage actions) in the DC with lower litigation costs, and cater for cases which would otherwise not be filed but for the comparatively lower litigation costs in the DC. This will in turn help enhance access to the judicial system.

D. Proportionality between claim amounts and legal costs

9. The reduction in legal costs as a result of a proposed increase in the DC’s jurisdictional limits will help address the disproportionality between the amount of a claim and the related costs, thereby ensuring fairer administration of justice.

E. Projections on workload impact

10. By using the data gathered from 1 January 2013 to 30 June 2017 (“the period under review”), the Judiciary has estimated the likely impact on the workload of the CFI and the DC respectively upon making adjustments to the jurisdictional limits of the DC³. After conducting a sensitivity and impact analysis, the Judiciary considers that increasing the general limits of the DC from \$1 million to \$3 million is worth pursuing. The likely impact on the caseload on the CFI and the DC respectively is set out as follows –

(a) For the CFI

- (i) the number of civil cases filed may decrease from the average of about 19 100 a year during the period under review to the level of 17 500, about 8% below the average number of cases filed in the period under review;
- (ii) the number of paper applications processed may decrease from about 32 300 a year by about 10% to the level of about 29 100;
- (iii) the number of interlocutory hearings listed may decrease from about 38 000 a year by about 13% to the level of about 33 100; and
- (iv) the number of trials listed may decrease from about 610 a year by about 20% to the level of about 490.

³ The Judiciary appreciates that it is difficult to be exact on the likely impact because other factors beyond the operation of the courts may also come into play. For example, general economic and business conditions may affect the number of cases filed and going to trial, and the actual time to be spent on each case may also be affected by factors such as whether the litigants are legally represented and its complexity.

The decrease in caseload in the CFI above is expected to be more significant for PI and mortgage claims.

(b) For the DC

- (i) the number of civil cases filed may increase from about 20 900 a year by about 8% to the level of about 22 500;
- (ii) the number of paper applications processed may increase from about 27 300 a year by about 12% to the level of about 30 500;
- (iii) the number of interlocutory hearings listed may increase from about 14 900 a year by about 33% to the level of about 19 800; and
- (iv) the number of trials listed may increase from 448 a year by about 27% to the level of about 567.

The increase in caseload in the DC above is expected to be more significant for PI and mortgage claims.

11. Based on the above projections, the Judiciary is confident that the DC is capable of handling the proposed changes with resources commensurate with the workload⁴. Of the two case types that are expected to see significant increases, PI cases are more or less dealt with on well-established legal principles and the mortgage claims to be offloaded by the CFI to the DC should be similar in nature and complexity to those being handled by the DC at the moment.

F. Changes in economic indicators

12. Since the last adjustment to the limits, there have been changes in various economic indices and indicators. For example, per capita gross domestic product increased cumulatively by about 82% in nominal terms between 2003 and 2016. The cumulative inflation rate, as measured by the Composite Consumer Price Index (“CCPI”) during the same period, was 41%.

⁴ For the aggregate impact on the workload of the DC arising from both increases in the jurisdictional limits for the DC and the SCT, please refer to paragraph 23 below.

13. In considering the general jurisdictional limits for the DC, changes in economic indices and indicators are not the only factors taken into account by the Judiciary. The projections on the workload impact on the DC are a more predominate consideration.

14. On the other hand, the other jurisdictional limits of the DC, which are primarily related to land, are more tied to the economic situation. They have been updated in the past on the basis of changes in the relevant economic indicators. In the current review exercise, the Judiciary has followed the established approach to make suitable assessments. As regards the workload impact, while the Judiciary may not be able to make projections due to the relevant factors being outside the control of the Judiciary, based on past operational experience, it is believed that the impact should be manageable.

15. The basis for proposed changes to the primarily land-related jurisdictional limits is set out as follows –

(a) Actions related to recovery of land

- (i) The current land-related jurisdictional limit of \$240,000 was set in 2000. It was set mainly on the basis of the then accumulative changes to the rateable value in the Valuation Lists issued by the Rating and Valuation Department of the Government (“RVD”) since an earlier review in 1988. At that time, a rateable value of \$240,000 would cover domestic properties with a capital value of about \$6 million and represented about 95 percentile of the then Valuation Lists.
- (ii) The Judiciary has adopted the same basis for the review conducted in 2015-16. According to the RVD, the accumulative changes of the average rateable value in its Valuation Lists since the last adjustment of the limit (i.e. from April 1999 to April 2014) are +34%. Applying this rate of increase to the present limit of \$240,000 would mean a proposed new limit of about \$320,000, representing around 93 percentile of the 2016-17 Valuation Lists, which is close to the percentile for the last revision in 2000. The Judiciary therefore proposes raising this limit from \$240,000 to \$320,000. The proposed limit would cover domestic properties with a capital value of about \$12.3 million.

(b) Equity jurisdiction involving land

- (i) For the equity jurisdiction of the DC where land is involved, the current limit of \$3 million was determined in 2000 having regard to the change in domestic property price index since the last adjustment, the percentage of properties in the Valuation Lists the limit would cover, and the rough capital value of an average small/medium residential property in Hong Kong. At that time, the limit of \$3 million corresponded to about 80 percentile of the RVD's then records of secondary sales of private domestic properties in the year.
- (ii) The Judiciary has also adopted a similar basis in the review conducted in 2015-16. The RVD has advised that the accumulative change in the price indices for all classes of private residential properties since the last adjustment of the limit (i.e. from April 1999 to April 2014) is +140% which translates into a limit of \$7.2 million (or around \$7 million). The limit of \$7 million is at around 79 percentile of the relevant records of secondary sales of private domestic properties for the year 2016, close to the percentile for the last revision in 2000. The Judiciary therefore proposes raising this limit from \$3 million to \$7 million.

(c) Equity jurisdiction not involving land

- (i) As regards the limit for equity jurisdiction where land is not involved, the Judiciary proposes raising the limit from \$1 million to \$3 million for alignment with the proposed increase in the general jurisdictional limit above.

Jurisdictional limits of the SCT

A. Enhancing access to justice

16. The SCT is a tribunal which adopts a more informal approach to proceedings and its rules and procedures are less strict than those in most other courts and tribunals, and no legal representation is allowed. It provides a relatively quick and less costly avenue for litigants to resolve civil disputes involving lower claim amounts.

17. The Judiciary considers it necessary to adjust the limit for the SCT upwards as well such that some of the simpler DC cases could be offloaded to the SCT, and that access to justice can be further enhanced by allowing the SCT to process more cases with lower claim amounts which may otherwise not be pursued by parties if they have to lodge such cases at the DC where costs of litigation are higher.

B. Economic indicators

18. Since the last review of the limits of the SCT in 2003, there has been a cumulative inflation rate of 41% as measured by the change in the CCPI between 2003 and 2016.

C. Projections on workload impact

19. The Judiciary has estimated the likely impact on demand for SCT services arising from the proposed increase of the financial limits of the SCT from \$50,000 to \$75,000, by taking into account the following –

- (a) suppressed demands: which refer to cases which are not filed to the court at present because of the legal costs in the DC; and
- (b) waive excess: which refer to cases of which the claimant would waive a portion of claim amount to fit the proposed jurisdiction of the SCT to save costs⁵.

20. The impact on the volume of SCT cases is likely to be as follows –

- (a) the number of cases filed in the SCT is likely to increase from about 49 600 a year by about 4% to the level of about 51 600. All the increases are expected to be attributable to claims filed by one party against another party, as against cases filed by the same claimant against multiple parties for similar causes at the same time; and

⁵ For example, at present, there are cases with claim amounts more than \$50,000 and up to \$100,000. The related legal costs for some of these cases if handled in the DC may far exceed the amount of \$100,000. Hence, some claimants may choose to waive part of their claim amounts so as to fit into the SCT's jurisdiction because of its lower legal costs. By increasing the SCT's jurisdictional limits, cases of even higher claim amounts may have part of their claim amounts waived to fit into the SCT's proposed limits.

- (b) the number of trials listed is projected to increase from about 1 490 a year by about 15% to the level of about 1 710.

D. Assistance to litigants

21. The Judiciary notes that cases to be diverted from the DC to the SCT may be slightly more complicated than SCT's present cases. Furthermore, legal representation, which may be engaged in the DC, will not be available for the cases to be shifted from the DC to the SCT.

22. In this regard, the Judiciary has published information covering various facets of the procedures at the SCT both on the internet and in hard copy pamphlets placed at the court buildings to enhance public understanding of the procedures for making and defending claims at the SCT. The Judiciary has also set up a new Information Centre at the new West Kowloon Law Courts Building (where the SCT was relocated to in September 2016) to provide enquiry services on rules and procedures of the SCT.

Aggregate impact on the DC

23. After taking into account the above proposed increases in the various jurisdictional limits for the DC and the SCT as a whole, the overall impact on the DC would be moderated (as compared with paragraph 10(b)) above as follows –

- (a) the number of civil cases filed may increase from about 20 900 a year by about 5% to the level of about 22 000;
- (b) the number of paper applications processed may increase from about 27 300 a year by about 10% to the level of about 29 900;
- (c) the number of interlocutory hearings listed may increase from about 14 900 a year by about 29% to the level of about 19 200; and
- (d) the number of trials listed may increase from about 448 a year by about 25% to the level of about 560.

The increase in caseload in the DC above is expected to be more significant for mortgage and PI cases.

THE RESOLUTIONS

24. The Resolutions at **Annexes A and B** propose that, with effect from a date to be appointed by the Chief Justice (“CJ”) –

- (a) the civil jurisdictional limits of the DC should be increased from \$1 million to \$3 million in respect of the following matters –
 - (i) general jurisdiction in actions founded on contract, quasi-contract and tort and proceedings by way of interpleader (section 32(1) and (3) of DCO);
 - (ii) money recoverable by enactment (section 33(1)(b) of DCO);
 - (iii) equity jurisdiction where proceedings do not involve or relate to land (section 37(2)(i), (ii) and (iv) of DCO);
 - (iv) extension of jurisdiction to grant injunctions and to make declarations for matters affecting movable property, etc (section 52(1)(a) and (d) of DCO);
- (b) the civil jurisdictional limits of the DC should be increased from \$240,000 to \$320,000 in respect of the following matters –
 - (i) jurisdiction in proceedings for recovery of land and proceedings relating to the title to land (sections 35, 36(a) and (b), 37(4) of DCO);
 - (ii) relief against forfeiture by re-entry for non-payment of rent (section 69B(1) of DCO);
 - (iii) extension of jurisdiction to grant injunctions and to make declarations for matters affecting immovable property (section 52(1)(c) of DCO);
- (c) the civil jurisdictional limits of the DC should be increased from \$3 million to \$7 million in respect of equity jurisdiction where the proceedings involve or relate to land (sections 37(2)(iii) and (iv) of DCO);

- (d) the civil jurisdictional limits of the SCT should be increased from \$50,000 to \$75,000 in respect of the following matters –
 - (i) general jurisdiction in actions of contract, quasi-contract and tort (paragraph 1 of the Schedule to SCTO);
 - (ii) money recoverable by enactment (paragraph 2(b) of the Schedule to SCTO).

25. The existing provisions of DCO and SCTO being amended are at **Annex C**.

Jurisdictional limit of the DC for costs-only proceedings

26. Section 53A of DCO sets out the jurisdictional limit of the DC for costs-only proceedings, which is \$1 million in terms of the costs involved in the party's claim at present⁶. The Judiciary proposes to increase such limit to \$3 million, in line with the proposed increase of the general civil jurisdictional limit of the DC as mentioned above.

27. Unlike the other jurisdictional limits of the DC as set out in the Resolutions, the limit of the DC for costs-only proceedings cannot be amended by resolution of the LegCo at the moment, as section 53A is currently not covered by section 73A of DCO which provides that jurisdictional limits of the DC can be amended by resolution of LegCo. In this connection, an amendment has been included in the Statute Law (Miscellaneous Provisions) Bill 2017 ("the Omnibus Bill") to add a reference to section 53A in section 73A of DCO so that the jurisdictional limit for costs-only proceedings can also be amended by resolution of the LegCo, in line with all other jurisdictional limits provided in DCO.

28. In order to take forward the implementation of the proposed revision to the other jurisdictional limits of the DC and the SCT as early as practicable, and considering that the number of costs-only proceedings conducted at the DC has been small in recent years⁷, the Judiciary would

⁶ 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.

⁷ For reference, no such case was filed in 2016.

wish to proceed with the amendments of the limits of the DC and the SCT which can be revised by resolution of the LegCo respectively under section 73A of DCO and section 6 of SCTO first. The jurisdictional limit of costs-only proceedings of the DC will be amended at an opportune juncture⁸.

Consequential amendments

29. In connection with the proposed increase of the civil jurisdictional limit of the SCT from \$50,000 to \$75,000 above, a consequential amendment to the Small Claims Tribunal (Fees) Rules (Cap. 338B) is required to be made to prescribe the fees payable for filing of claims with claim amounts between \$50,000 and \$75,000. Pursuant to section 36 of SCTO, such proposed amendments are to be made by the CJ. The amendment rules will be made and introduced to LegCo for negative vetting after the passage of the Resolutions.

LEGISLATIVE TIMETABLE

30. The legislative timetable is as follows –

Issuing notice by the Government to move the Resolutions at LegCo 28 February 2018

Moving the Resolutions by the Chief Secretary for Administration at LegCo (if no Subcommittee is formed) 21 March 2018

Commencement of the proposals (if the Resolutions and the consequential amendments to be made by the CJ as mentioned in paragraph 29 above are passed by LegCo) A date to be appointed by the CJ in mid-2018

⁸ Upon the passage of the Omnibus Bill, the said jurisdictional limit may either be amended (i) by moving another resolution at LegCo at a later date, or (ii) together with other miscellaneous legislative amendments in a separate exercise.

IMPLICATIONS OF THE PROPOSAL

31. The proposed legislative amendments are in conformity with the Basic Law, including the provisions concerning human rights, and will not affect the current binding effect of DCO and SCTO. They have no economic, productivity, environmental, sustainability, competition, family or gender implications.

32. As for financial and civil service implications, the creation of a net total of nine JJO posts (including four District Judges, three Deputy Registrars, DC, and two Adjudicators, SCT) and 23 non-directorate civil service posts for supporting the JJOs is required for coping with the increases in caseload at the DC and the SCT. The LegCo Finance Committee approved the creation of nine JJO posts on 1 December 2017. The Government has provided the Judiciary with the financial resources for meeting in full the manpower needs from 2017-18.

PUBLIC CONSULTATION

33. The Judiciary consulted the Hong Kong Bar Association and the Law Society of Hong Kong in a consultation exercise conducted in 2015-16, and the LegCo Panel on Administration of Justice and Legal Services in April 2017. They are generally supportive of the proposal.

PUBLICITY

34. A spokesperson will be available for answering media enquiries.

BACKGROUND

35. The last review of the civil jurisdictional limits of the DC and the SCT was conducted in 2003. In that review exercise, the Judiciary had conducted an analysis on the possible impact on demand for court services, changes in relevant economic indicators, the pattern in litigation costs, resource implications for the Judiciary, and the development of JJOs to cope with the increase in civil jurisdictional limits. As a result of the review, the general financial limit and the limit of the equity jurisdiction where land is not involved of the 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 the DC and the limit of the SCT were kept unchanged.

ENQUIRIES

36. For enquiries on this brief, please contact Mr David Lau, Assistant Judiciary Administrator (Development) 2, at 2867 5203, or Ms Christine Wai, Assistant Director of Administration, at 2810 3946.

**Administration Wing
Chief Secretary for Administration's Office**

Judiciary Administration

28 February 2018

District Court Ordinance

Resolution

(Under section 73A of the District Court Ordinance (Cap. 336))

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

Section 69B(1)—

Repeal

“\$240,000”

Substitute

“\$320,000”.

Small Claims Tribunal Ordinance

Resolution

(Under section 6 of the Small Claims Tribunal Ordinance (Cap. 338))

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.

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”.

Jurisdiction—General

32. General jurisdiction in actions of contract, quasi-contract and tort

- (1) The Court has jurisdiction to hear and determine any action founded on contract, quasi-contract or tort where the amount of the plaintiff's claim does not exceed \$1,000,000.
- (2) In this section and in section 34, the amount of the plaintiff's claim means the amount the plaintiff claims after taking into account—
 - (a) any set-off or any debt or demand the defendant claims or may recover from the plaintiff;
 - (b) any compensation, as defined in section 3 of the Employees' Compensation Ordinance (Cap. 282), paid to the plaintiff under that Ordinance; and
 - (c) any contributory negligence, that the plaintiff admits in his statement of claim.
- (3) The Court has jurisdiction to hear and determine any proceedings by way of interpleader in which the amount or value of the matter in dispute does not exceed \$1,000,000.

(Replaced 28 of 2000 s. 21. Amended L.N. 241 of 2003)

33. Money recoverable by enactment

- (1) The Court has jurisdiction to hear and determine any action for the recovery of any penalty, expenses, contribution or other like demand which is recoverable by virtue of any enactment for the time being in force and for the recovery of any sum which is declared by any enactment to be recoverable as a civil debt if— *(Amended 28 of 2000 s. 22)*
 - (a) it is not expressly provided by that or any other enactment that the demand shall be recoverable only in some other court; and
 - (b) the amount claimed in the action does not exceed \$1,000,000. *(Amended 35 of 1966 s. 2; 68 of 1973 s. 2; 79 of 1981 s. 2; L.N. 387 of 1983; 49 of 1988 s. 4; L.N. 241 of 2003)*
- (2) For the purposes of this section, **penalty** (罰金) does not include a fine to which any person is liable on conviction on indictment or on summary conviction.

(22 of 1962 s. 4 incorporated. Amended 28 of 2000 s. 22)

35. Jurisdiction for recovery of land

The Court has jurisdiction to hear and determine any action for the recovery of land, where the annual rent or the rateable value of the land, determined in accordance with the Rating Ordinance (Cap. 116), or the annual value of the land, whichever is the least, does not exceed \$240,000.

(Replaced 28 of 2000 s. 23)

36. Jurisdiction where title in question

The Court has jurisdiction to hear and determine any action which would otherwise be within the jurisdiction of the Court and in which the title to an interest in land comes into question if—

- (a) for an easement or licence, the rateable value, determined in accordance with the Rating Ordinance (Cap. 116) or the annual value, whichever is the less, of the land, over which the easement or licence is claimed, does not exceed \$240,000; or
- (b) for any other case, the rateable value, determined in accordance with the Rating Ordinance (Cap. 116) or the annual value, whichever is the less, of the land, does not exceed \$240,000.

(Replaced 28 of 2000 s. 23)

37. Equity jurisdiction

- (1) Subject to the maximum limits in amount or value set out in subsection (2), the Court has the jurisdiction of the Court of First Instance to hear and determine the following proceedings —
 - (a) proceedings relating to or for the administration of the estate of a deceased person;
 - (b) proceedings for the execution of a trust or for the declaration that a trust subsists or proceedings under section 3 of the Variation of Trusts Ordinance (Cap. 253);
 - (c) proceedings for the foreclosure or redemption of a mortgage or for enforcing a charge or lien;
 - (d) proceedings for the specific performance, or for the rectification, rescission or delivery up or cancellation of an agreement for the sale, purchase or lease of property;
 - (e) proceedings for the maintenance or advancement of an infant;
 - (f) proceedings for the dissolution or winding up of a partnership, whether or not the existence of the partnership is in dispute;
 - (g) proceedings for relief against fraud or mistake.
- (2) The maximum limits in amount or value referred to in subsection (1) for—
 - (a) in the case of subsection (1)(a), an estate of a deceased person;
 - (b) in the case of subsection (1)(b), an estate or fund subject or alleged to be subject to the trust;
 - (c) in the case of subsection (1)(c), the amount owing under the mortgage, charge or lien;
 - (d) in the case of subsection (1)(d), for an agreement for sale or purchase, the purchase money or, for an agreement for lease, the value of the property;
 - (e) in the case of subsection (1)(e), the property of the infant;
 - (f) in the case of subsection (1)(f), the assets of the partnership;
 - (g) in the case of subsection (1)(g), the damage sustained or the estate or fund for which relief is sought,
 are—
 - (i) \$1,000,000, where the proceedings do not involve or relate to land; *(Amended L.N. 241 of 2003)*

- (ii) \$1,000,000, where the proceedings partly involve or partly relate to land and the part that does not so involve or does not so relate exceeds \$1,000,000 in amount or value; (*Amended L.N. 241 of 2003*)
 - (iii) \$3,000,000, where the proceedings wholly involve or wholly relate to land;
 - (iv) \$3,000,000, where the proceedings partly involve or partly relate to land and the part that does not so involve or does not so relate does not exceed \$1,000,000 in amount or value. (*Amended L.N. 241 of 2003*)
- (3) A judge has in proceedings authorized by this section in addition to his other powers and authority the powers and authorities of a judge of the Court of First Instance acting in the exercise of the equitable jurisdiction of the Court of First Instance.
- (4) Nothing in this section gives jurisdiction to the Court in proceedings for the recovery of land or relating to the title to land, where the annual rent or the rateable value of the land, determined in accordance with the Rating Ordinance (Cap. 116), or the annual value of the land, whichever is the least, exceeds \$240,000.

(Replaced 28 of 2000 s. 23)

52. Extension of jurisdiction to grant injunctions and to make declarations

- (1) The Court shall have jurisdiction to grant and to enforce injunctions of whatsoever nature and as the case may require and to make binding declarations of right—
- (a) in all matters affecting movable property, including money and choses in actions, where the amount or value thereof does not exceed \$1,000,000; and (*Amended 68 of 1973 s. 2; 79 of 1981 s. 2; L.N. 387 of 1983; 49 of 1988 s. 4; 28 of 2000 s. 25; L.N. 241 of 2003*)
 - (b) with respect to any apprehended distress; and
 - (c) in all matters affecting immovable property, including any right, licence or easement in, to, through or over any immovable property and any agreement, covenant or condition respecting immovable property, where the annual rent or the rateable value, determined in accordance with the provisions of the Rating Ordinance (Cap. 116) or the annual value, whichever is the less, of the property does not exceed \$240,000; and (*Amended 68 of 1973 s. 3; 79 of 1981 s. 2; L.N. 387 of 1983; 49 of 1988 s. 4; L.N. 145 of 1992; 28 of 2000 s. 25*)
 - (d) in all matters of contract not falling within paragraph (a), (b) or (c) where the amount or value of the subject matter of the contract does not exceed \$1,000,000, (*Amended 68 of 1973 s. 2; 79 of 1981 s. 2; L.N. 387 of 1983; 49 of 1988 s. 4; 28 of 2000 s. 25; L.N. 241 of 2003*)
- notwithstanding that any claim for damages or for any other relief or remedy which the Court is competent to grant shall be made in the proceedings. (*Amended 35 of 1966 s. 4*)
- (2) Nothing in this section shall—
- (a) be deemed to confer admiralty jurisdiction upon the Court; or
 - (b) prejudicially affect the provisions of section 48; or (*Amended 28 of 2000 s. 25*)

- (c) empower the Court to grant any injunction or to make any declaration in such manner as to affect any process or proceeding of or in the Court of First Instance.
(Amended 25 of 1998 s. 2)

(22 of 1962 s. 21 incorporated)

69B. Relief against forfeiture by re-entry for non-payment of rent

- (1) This section has effect where a lessor has enforced against a lessee, by re-entry without action, a right of re-entry or forfeiture as respects any land for non-payment of rent, where the rateable value of the land, determined in accordance with the provisions of the Rating Ordinance (Cap. 116), does not exceed \$240,000.
- (2) The lessee may, at any time within 6 months from the date on which the lessor re-entered, apply to the Court for relief, and on any such application the Court may grant to the lessee such relief as the Court of First Instance could have granted.

(Added 28 of 2000 s. 38)

SCHEDULE

[s. 5]

JURISDICTION OF TRIBUNAL

1. Any monetary claim founded in contract, quasi-contract or tort where the amount claimed is not more than \$50,000, whether on balance of account or otherwise: (*Amended L.N. 81 of 1982; 14 of 1986 s. 11; 49 of 1988 s. 2; 28 of 1999 s. 17*)
Provided that the tribunal shall not have jurisdiction to hear and determine—
 - (a) any action in respect of—
 - (i) defamation;
 - (ii)-(iii) (*Repealed 40 of 1986 s. 6*)
 - (b) any action or proceeding in respect of a maintenance agreement within the meaning of section 14 of the Matrimonial Proceedings and Property Ordinance (Cap. 192);
 - (c) any action by a money lender licensed under the Money Lenders Ordinance (Cap. 163) for the recovery of any money lent, or the enforcement of any agreement or security made or taken in respect of money lent;
 - (ca) any action that lies within the jurisdiction of the Minor Employment Claims Adjudication Board established by section 3 of the Minor Employment Claims Adjudication Board Ordinance (Cap. 453); (*Added 61 of 1994 s. 56*)
 - (d) any action that lies within the jurisdiction of the Labour Tribunal established under the Labour Tribunal Ordinance (Cap. 25);
 - (e) any action which is submitted to the jurisdiction of the Estate Agents Authority established by section 4 of the Estate Agents Ordinance (Cap. 511) and in respect of which the Estate Agents Authority has not declined jurisdiction, under or pursuant to section 49 of that Ordinance; (*Added 48 of 1997 s. 58. Amended 3 of 2008 s. 6*)
 - (f) any action or proceeding for an order for the costs of and incidental to a dispute in relation to which no proceedings have been commenced in the tribunal. (*Added 3 of 2008 s. 6*)
- 1A. Notwithstanding subparagraph (d) of the proviso to paragraph 1, the tribunal shall have jurisdiction to hear and determine a claim transferred to the tribunal under section 10(2) of the Labour Tribunal Ordinance (Cap. 25). (*Added 25 of 1999 s. 19*)
2. Any claim for the recovery of any penalty, expenses, contribution or other amount which is recoverable by virtue of any enactment and for the recovery of any amount which is declared by any enactment to be recoverable as a civil debt if—
 - (a) it is not expressly provided by that or any other enactment that the demand shall be recoverable only in some other court; and

- (b) the amount claimed does not exceed \$50,000. (*Amended L.N. 81 of 1982; 14 of 1986 s. 11; 49 of 1988 s. 2; 28 of 1999 s. 17*)

For the purposes of this paragraph, “penalty” (罰金) shall not include a fine imposed on the conviction of any person for an offence.