



司法機構政務長

Judiciary Administrator

24 February 2020

Dr Hon Priscilla Leung, SBS, JP
 Chairman
 Panel on Administration of Justice and Legal Services
 Legislative Council Complex
 1 Legislative Council Road
 Central, Hong Kong

Dear Chairman,

**Panel on Administration of Justice and Legal Services
 (“AJLS Panel”)
 General Adjournment of Court Proceedings**

Thank you for your letter of 21 February 2020. On the instructions of the Chief Justice, I am writing to provide details of the various measures that the Judiciary has been and will be taking to address and alleviate the impact of the general adjournment of court proceedings on the operation of the judicial system for the information of the AJLS Panel. It is to be stressed that at all times, it is the public interest that is paramount.

(I) The General Adjournment of Court Proceedings and Closure of Court Registries/Offices

(A) The Present Position

2. In view of public health considerations, which are considerable and not to be underestimated as we understand it, the Judiciary has generally adjourned court proceedings and closed court registries/offices since 29 January 2020 but urgent and essential court hearings and business were and will continue to be dealt with.

3. The general adjournment and its duration are unprecedented. The decision to impose and extend the General Adjourned Period (“GAP”) was not made lightly. Instead, it was made by the Chief Justice, as the head of the Judiciary, after striking a careful balance between public health considerations and the public interest involved in the due administration of justice. On the one hand, to minimize the risk of outbreak of the COVID-19 in the community, every sector in Hong Kong, including the Judiciary, has its responsibility. On the other hand, the Judiciary recognizes the impact the general adjournment has on the daily operation and businesses of the courts, and the concerns it may have caused for court users and the wider community as a whole. Taking all factors into consideration, the Judiciary has been making efforts to minimize the flow of people in court premises and avoid the gathering of crowds in confined areas such as courtrooms and registry areas as far as practicable during GAP. Accordingly, court hearings have been limited to those which are urgent and essential, and that in conducting such urgent and essential hearings, a whole range of preventive measures are being put in place.

4. The current GAP has been extended until 1 March. During GAP, court hearings will continue to be limited to those which are urgent and essential. At the same time, the Judiciary will continue to deal with other urgent and essential court businesses on paper during GAP as and when required.

5. Nevertheless, during the past few weeks, the Judiciary has been constantly reviewing the scope of urgent and essential businesses, and making adjustments on a regular basis, bearing in mind that the longer the general adjournment has become, the more matters may become urgent and essential. As a result of the latest review, an updated list of urgent and essential matters will come into effect on 24 February. These include fresh remand cases, urgent and essential criminal matters including bail-related and sentencing hearings, handing down of judgments for cases with urgency or great public importance, and other urgent applications to the courts. In addition, the courts will, as far as practicable, handle matters which can be dealt with by paper disposal. Further details are set out as follows.

Enhanced Measures for Urgent and Essential Businesses

6. The Judiciary recognizes that with the continued prolongation of the general adjournment, there is a need to enhance various measures so that more urgent and essential matters can be handled effectively. In coming up with such enhanced measures, the Judiciary has been in close communication with relevant stakeholders, including the Department of Justice, the Bar Association and the Law Society, and taken their views and suggestions into account as appropriate. The communication with all relevant stakeholders will continue.

7. The enhanced measures include the following :

- (a) Judges and Judicial Officers at all levels of courts will, as far as practicable and as permitted by law, pro-actively manage both civil and criminal cases which has fallen within the adjournment period and cases which are listed in the following two weeks on a rolling basis and to give directions to parties concerned on paper;
- (b) For civil cases:
 - (i) Judges and Judicial Officers will strive to deal with court business and applications, in particular interlocutory applications, by paper disposal as far as practicable; and
 - (ii) There will be greater use of electronic means (e.g. emails) for receiving documents from parties to facilitate paper disposal and avoid physical attendance at court premises; and
- (c) For criminal cases where the presence of the defendant or an appellant is required under the law, urgent and essential cases will be identified under the proactive case management by the Judges and Judicial Officers, and would be suitably handled.

8. We are pleased to note that the legal profession has responded positively to the enhanced measures. The details of the updated list of urgent and essential matters, as well as the details of the enhanced measures, are set out in the Annex.

9. In the course of discussions, some stakeholders have asked if the court registries might be partially opened during GAP. The Judiciary has explained to them that it is important for court registries generally to remain closed during GAP having regard to health considerations. Moreover, as far as computation of time for the purposes of any Ordinance during GAP is considered, section 71(1A) of the Interpretation and General Clauses Ordinance (Cap. 1) is relevant. For other purposes, the Judiciary has also re-assured them that special arrangements have been and will be made from 24 February to enable the provision of necessary services in support of the expanded scope of urgent and essential court businesses such as sealing of court orders without opening the registries.

10. Some stakeholders have also suggested the courts to explore more non-conventional modes for handling court businesses during GAP, e.g. hearings by video conferencing. However, the Judiciary is advised that under the existing law, that may not be permissible. It is important that any measures taken are in accordance with the law. For example, as regards suggestions for e-filing, this is also not permissible under the existing law. The legislative amendments seeking to enable e-filing and e-transactions of businesses with the courts are now awaiting to be scrutinized by the Legislative Council, and the Judiciary looks forward to them being passed. In the meantime, the Judiciary has explained to all stakeholders that it is exploring all feasible options to adopt greater use of e-means which do not require legislative amendments, e.g. use of emails during GAP to receive certain types of documents other than those for filing and greater use of e-bundles for appropriate cases. This is a pragmatic approach, but its scope will inevitably be limited by the law.

(C) Communication with Stakeholders and the Public

11. The Judiciary recognizes the importance of maintaining close communication with all relevant stakeholders, court users and the public. We have been making efforts along the following lines.

12. First, the Judiciary aims to make public announcements as soon the decisions relating to GAP are made, both through the media and by posting the announcements on its website. At the same time of making the public announcements, the Judiciary issues detailed notifications about the specific arrangements to all the relevant stakeholders, including the Department of Justice, the Bar Association and the Law Society, and through them

disseminating the necessary detailed information to all their members. Altogether, we are in close and regular communication with about 15 key stakeholder organizations. In addition, on a need basis, the Judiciary may issue supplementary notification to stakeholders even if there is no public announcement at the time. On top of written communications, there is an extensive network of instant communications between staff of the Judiciary and their counterparts in all the relevant stakeholder organizations at different levels both during and outside office hours. These mechanisms have been working effectively during GAP, and will continue to be adopted and refined as necessary.

13. Secondly, the Judiciary recognizes the importance of engaging the stakeholders for views and suggestions, and listening to their feedback in devising necessary measures and planning for the way forward. The Judiciary has met with major stakeholders, including the Department of Justice, the Bar Association and the Law Society, and is alert to their concerns and has taken into account the various suggestions put forward by them. In particular, when coming up with the latest enhanced measures at paragraphs 6 to 8 above, the Judiciary has taken on board their views and suggestions as appropriate. The Judiciary will continue to liaise closely with all stakeholders in working out any further arrangements.

14. Thirdly, the Judiciary is mindful of the need to keep all court users, in particular the unrepresented litigants, and the public informed and answer any questions they may have regarding GAP. The Judiciary is operating 10 hotlines for different courts and tribunals to handle enquiries regarding general arrangements on the court businesses during GAP. At the same time, the Judiciary will continue to post updated information, including public announcements, messages related to the Judiciary's arrangements arising from public health considerations, Daily Cause Lists for urgent and essential hearings, and advice to court users visiting the courts during GAP, on the Judiciary website (www.judiciary.hk). Court users are advised to check the website for updated information as necessary.

(D) Preventive Measures at Court Premises

15. Having regard to the latest public health concerns and developments but at the same time recognizing the need to conduct urgent and essential court hearings during GAP, a range of preventive measures are put in place to manage the public health risks and ensure the hygiene of court premises. The

current preventive measures in force include the following :

- (a) Requiring all court users entering Judiciary premises to undergo body temperature checks. If a court user has fever, he/she would be denied entry to the court premises;
- (b) Cleaning and disinfecting public areas of court buildings, frequently-touched surfaces (such as door handles, lift buttons and escalator handrails) and public toilets regularly;
- (c) Providing alcohol-based handrub in all law courts buildings;
- (d) Court users are requested to put on a surgical mask when entering the Judicial premises, in particular when interacting with other people within the court premises;
- (e) Court users are advised to wear a surgical mask at appropriate times, even during court proceedings, unless otherwise as directed by the presiding Judge or Judicial Officer;
- (f) Hearings of urgent and essential proceedings will be held at the largest possible courtrooms in the building, and with broadcasting facilities if possible;
- (g) Seating capacity of the public gallery of the courtrooms will be reduced by about half to enable court users to sit at a distance from one another; and
- (h) When all the designated seats in the public gallery are taken up, no standing will be allowed to observe court proceedings in the court rooms.

16. The Judiciary will continue to review the situation and introduce any new or enhanced preventive measures as necessary.

(II) The Way Forward

(A) On-going Reviews and Updates

17. The public health situation is fast changing and this is of course

beyond the control of the Judiciary. Given the fluidity and uncertainty of the external circumstances, the Judiciary will continue to do its best to monitor developments closely, review its position regularly and devise further enhanced measures to address the unprecedented challenges.

18. As stated earlier, the Judiciary will continue to liaise with relevant stakeholders closely and come up with further enhanced measures as required and appropriate. Further announcements will be made as appropriate.

(B) Preparation for Resumption

19. The Judiciary is also actively preparing for the resumption of proceedings and re-opening of court registries/offices for all levels of courts/tribunals once the public health situation permits.

20. In working out the detailed resumption arrangements, the following considerations are relevant :

- (a) An orderly resumption of both registry businesses and court proceedings is of paramount importance;
- (b) A staggered and progressive approach is to be adopted to ensure orderly resumption; and
- (c) Parties concerned, be they legally represented or litigants in person, will be given clear notification and sufficient lead time for preparation of their cases, regardless of whether the hearings are to be re-fixed or proceed as scheduled.

21. The Judiciary will continue to closely liaise with all relevant stakeholders as it finalizes the detailed resumption arrangements. Once the arrangements are ready, public announcement(s) will be made.

Concluding Remarks

22. The Judiciary trusts that the above has provided the AJLS Panel with a comprehensive account of the matters relating to GAP. As stated above, the public interest is paramount and the health concerns of the community are not to be underestimated. The Judiciary's actions have been guided accordingly.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Emma Lau', written in a cursive style.

(Miss Emma Lau)
Judiciary Administrator

c.c. Ms Teresa Cheng, GBS, SC, JP
Secretary for Justice

Mr Philip Dykes, SC
President, Hong Kong Bar Association

Ms Melissa K Pang
President, the Law Society of Hong Kong

Urgent and Essential Hearings/Matters Handled by the Courts

The urgent and essential hearings and/or matters which may be handled from 24 February to 1 March include the following :

- (a) *For Civil Cases at the High Court (“HC”), the District Court (“DC”) and the Family Court (“FC”)* :

Enhanced Measures

- (i) though no hearings will generally be held during General Adjourned Period (“GAP”), individual Judges and Judicial Officers (“JJOs”) will, as far as possible, review their cases originally listed to be heard during GAP and the following two weeks, whether represented ones or not, to see if they can be suitably disposed of on paper. These cases are primarily interlocutory applications and substantive applications not involving any witnesses. If paper disposal is possible, the JJO concerned will give case management directions on paper. If not, the case will be re-fixed;
- (ii) parties may be asked to lodge documents or submissions with the court to facilitate paper disposal. Special one-way email accounts are being set up to enable electronic submission of documents to the court for specified purposes during GAP. The JJOs will not use the email accounts to communicate with parties, which will continue to be through conventional means such as fax;
- (iii) as generally no hearing will be held during GAP, if any party insists on having an oral hearing, the hearing will have to be re-fixed with listing appointments to be given by the court;
- (iv) where parties have reached agreement on matters that can be properly dealt with by consent, the court will also make orders by consent;

- (v) for decisions or judgments made on paper during GAP, or where it is justified on grounds of urgency, the court may issue sealed orders. Requests for sealed orders may be made to the JJO who makes the order in question. Parties may attach a draft order to their written submission;
- (vi) during GAP, parties or legal representatives may submit documents to the Duty Judges through dedicated email addresses, which will be open until the end of GAP or further notice;

Other Measures

- (vii) urgent matters or hearings before the HC, the DC and the FC, including those relating to the specialist lists, will continue to be dealt with by the respective Duty Judges (“Duty Judge system”);
- (viii) the Duty Judge system has been expanded (with the support of duty master(s) as necessary), to cover the following urgent filing matters :
 - (1) urgent applications to file originating documents at these courts where the limitation period for a cause of action under the Limitation Ordinance (Cap. 347) may expire during the adjourned period. For such urgent applications for filing, the handling solicitor shall provide a certificate explaining the need for urgent filing;
 - (2) urgent non-contentious matters, i.e. urgent application and collection of apostilles and urgent grants of probate; and
 - (3) documents relating to the urgent bankruptcy-related proceedings set out in (b) below; and
- (ix) if a party or his/her legal representative considers that any matter has become urgent because of the court’s continued

general adjournment, they may consider using the Duty Judge system to bring such matters to the attention of the court. The party concerned should provide a certificate explaining the urgency of the matter. They should also provide the essential and key documents to enable the court to decide whether the matter is really urgent and essential which should be handled during GAP on an exceptional basis.

- (b) For Civil Cases at the Court of First Instance of the High Court (“CFI”): the following urgent bankruptcy-related applications :
- (i) urgent applications under section 30A of the Bankruptcy Ordinance (Cap. 6) by the trustee in bankruptcy or creditor of the bankrupt for the suspension of the bankrupt’s discharge from bankruptcy;
 - (ii) urgent objections to discharge applications not yet filed but with imminent dates of discharge of bankruptcy, and urgent applications for non-commencement orders under section 30AB of Cap. 6 not yet filed but with imminent deadlines for filing; and
 - (iii) urgent applications under section 42 of Cap. 6 by the debtors for validation orders.
- (c) For Criminal Cases at the Court of Appeal of the HC : urgent bail applications;
- (d) For Criminal Cases at CFI : urgent bail applications and bail reviews;
- (e) For Criminal Cases at the CFI and DC : urgent cases in which the defendants are remanded in custody pending sentence and the hearings of which fall under either of the following categories :
- (i) the hearing date falls between 24 February and 1 March; or

- (ii) the case was originally adjourned to a hearing date during the period of 29 January to 23 February.

(f) For the Magistrates' Courts ("MCs") :

- (i) fresh remand cases; and
- (ii) person remanded in custody who has the legal rights to appear before a Magistrate to review his or her remand situation and either of the following conditions is met :
 - (1) the return date falls between 24 February and 1 March; or
 - (2) the case was originally adjourned to a date during the period of 29 January to 23 February.
- (iii) urgent cases relating to sentencing in which the defendants are remanded in custody and the hearings of which fall under either of the following categories :
 - (1) the hearing date falls between 24 February and 1 March; or
 - (2) the case was originally adjourned to a hearing date during the period of 29 January to 23 February.

(g) For the Juvenile Court : urgent cases concerning care and protection orders with either of the following conditions being met :

- (i) the return date falls between 24 February and 1 March; or
- (ii) the case was originally adjourned to a date during the period of 29 January to 23 February.

(h) For the Coroner's Court : the following categories of urgent matters :

- (i) paper applications for waivers for autopsy;
- (ii) issuing urgent certificates of order authorizing burial/cremation of body;
- (iii) handling urgent cases with pathologist's recommendation for autopsy; and
- (iv) issuing urgent certificate of the fact of death and documents for the removal of bodies outside jurisdiction.

2. Moreover, the courts may also continue to hand down judgments for cases with urgency or great public importance as appropriate. As usual, the courts will give sufficient notice to the relevant parties of the cases.

Statutory Duties

3. For the DC and MCs, the relevant Judges and Magistrates will continue to perform, as appropriate, their statutory duties relating to urgent applications for search warrants and applications under the Mental Health Ordinance.

Registries and Other Court Offices

4. Court/tribunal registries and offices will continue to be closed until further notice, except for providing support for the handling of urgent and essential court hearings and/or matters as set out above.