

香港民事司法制度改革 Reform of the Civil Justice System in Hong Kong



《民事司法制度改革工作小組最後報告書》

為了完善我們的民事司法制度，確保民事訴訟可在合理時間內，以恰當的訴訟費用、通過簡便的程序獲得公正審理，終審法院首席法官於2000年2月成立民事司法制度改革工作小組（工作小組），對高等法院民事訴訟的規則和程序進行檢討，並提出修改建議。工作小組已完成檢討，並於2004年3月發表最後報告書（《最後報告書》）。

《最後報告書》作出150項提議，對現行的訴訟程序和規則提出多項的修訂提議，主要包括 —

- 法庭為每宗爭議案件訂立嚴格的進度時間表；
- 簡化訴訟程序以避免過程中不必要的步驟；
- 鼓勵與訟人提交精簡的狀書、證人陳述書及口頭證供；
- 限制與訟人純為程序上的問題而提出上訴的權利；

Final Report of the Working Party on Civil Justice Reform

The Chief Justice appointed the Working Party on Civil Justice Reform (“Working Party”) in February 2000 to review the rules and procedure of the High Court in civil proceedings and to recommend changes thereto, with a view to ensuring and improving access to justice at reasonable cost and speed. The Working Party completed the review and published its Final Report in March 2004 (“the Final Report”).

The Final Report makes 150 recommendations involving a number of amendments to existing procedural rules and practice. The major ones include –

- the introduction of strict timetables set by the court for each contested case;
- streamlining procedures to avoid unnecessary steps in the course of an action;
- discouraging over-elaborate pleadings, witness statements and oral evidence;
- limiting the right to take purely procedural questions on appeal;

- 採用文件審閱方式處理簡單的程序事宜而毋須聆訊；
- 鼓勵訴訟各方之間坦誠相待；
- 鼓勵與訟人盡早和解；及
- 認真考慮其他可以解決與訟人之間糾紛的方法。

《最後報告書》及《報告摘要》已上載至專為民事司法制度改革而設的網站 <<http://www.civiljustice.gov.hk>>，方便公眾人士閱覽。

民事司法制度改革督導委員會

2004年3月，終審法院首席法官宣布接納《最後報告書》的改革提議，以及宣布成立民事司法制度改革督導委員會（督導委員會），監督民事司法制度改革《最後報告書》內各項改革提議的推行情況。

督導委員會主要工作如下 —

- 監督對有關主體及附屬法例作出所需修訂的工作，以及修訂實務指示，並在適當情況下草擬新的實務指示；
- 為法官及政務處人員制定有關培訓計劃，以確保改革提議能夠順利及有效地施行；及
- 在適當時候研究提升有關資訊科技系統及改善運作系統，確保備有適當和足夠的支援。

- dealing with simple procedural matters on paper without the need for a hearing;
- encouraging greater openness between parties;
- encouraging earlier settlements; and
- requiring proper consideration to be given to alternative means of resolving disputes.

The Final Report and its Executive Summary have been uploaded onto the dedicated website of the Civil Justice Reform (“CJR”) <<http://www.civiljustice.gov.hk>> for easy access by members of the public.

Steering Committee on Civil Justice Reform

In March 2004, the Chief Justice announced his acceptance of the recommendations in the Final Report and the establishment of the Steering Committee on Civil Justice Reform (“Steering Committee”) to oversee the implementation of the recommendations of the Final Report on CJR.

The main responsibilities of the Steering Committee are –

- To oversee the necessary amendments to relevant primary and subsidiary legislation, and to amend and where appropriate to draft new Practice Directions;
- To devise training programmes for judges and administrative staff for the smooth and effective implementation of the recommendations; and
- To look into the area of information technology enhancement and infrastructural changes in due course to ensure that appropriate and adequate support is in place.

督導委員會 2006 年 4 月發表《實施民事司法制度改革之法例修訂建議諮詢文件》，邀請法律界和其他有關方面在三個月的諮詢期內提出意見。督導委員會已因應收集所得的意見，對草擬的新法例條文作出校正，並預計 2007 年提交立法建議。



實施民事司法制度改革之法例修訂建議諮詢文件
Consultation Paper on Proposed Legislative Amendments for the Implementation of the Civil Justice Reform

終審法院首席法官於 2006 年 9 月擴闊督導委員會的職權範圍，以監督將《最後報告書》內的改革建議應用於區域法院和土地審裁處的事宜。

自 2005 年 12 月起，督導委員會按終審法院首席法官的指示，並在區域法院及土地審裁處法官的協助下，開始研究如何適當地將民事司法制度改革應用於區域法院及土地審裁處。

區域法院的數位法官獲委任為督導委員會的委員，最新的委員會成員名單如下 —

高等法院首席法官馬道立 (主席)

上訴法庭副庭長胡國興

In April 2006, the Steering Committee issued the “Consultation Paper on Proposed Legislative Amendments for the Implementation of the Civil Justice Reform”. The legal profession and other interested parties were invited to give their views during the three-month consultation period. In the light of the comments received, the Committee has reviewed the drafting instructions for the new draft legislation. It is expected that the necessary legislation can be introduced during 2007.

In September 2006, the Chief Justice expanded the terms of reference of the Steering Committee to oversee the application of the recommendations of the Final Report to the District Court and the Lands Tribunal.

Since December 2005, as directed by the Chief Justice, the Steering Committee has, with the assistance of Judges at the District Court and the Lands Tribunal, begun to study the appropriate application of CJR to the District Court and the Lands Tribunal.

Judges of the District Court have been appointed to the Steering Committee. The membership of the Steering Committee is now as follows –

The Hon Mr Justice Ma, Chief Judge of the High Court (Chairman)

The Hon Mr Justice Woo, Vice-President of the Court of Appeal

高等法院原訟法庭法官夏正民

The Hon Mr Justice Hartmann, Judge of the Court of First Instance

高等法院原訟法庭法官朱芬齡

The Hon Madam Justice Chu, Judge of the Court of First Instance

高等法院原訟法庭法官鮑晏明

The Hon Mr Justice Barma, Judge of the Court of First Instance

高等法院原訟法庭法官芮安牟

The Hon Mr Justice Reyes, Judge of the Court of First Instance

高等法院原訟法庭法官馮驊

The Hon Mr Justice Fung, Judge of the Court of First Instance

高等法院原訟法庭法官潘兆初

區域法院法官陸啟康

區域法院法官及終審法院署理司法常務官歐陽桂如

The Hon Mr Justice Poon, Judge of the Court of First Instance

區域法院暫委司法常務官高勁修

HH Judge Lok, Judge of the District Court

督導委員會現已成立區域法院小組委員會，由高等法院原訟法庭法官馮驊擔任主席，以監督民事司法制度改革在區域法院推行的情況。

HH Judge Au Yeung, Judge of the District Court and Acting Registrar of the Court of Final Appeal

考慮到落實改革所必須作出的重大改變，以及立法程序、提升資訊科技系統及改善運作系統所需的時間，我們預計《最後報告書》的提議大約需時最少三年才可實施。

Mr Justin Ko, Temporary Registrar of the District Court

A Sub-committee on the District Court, chaired by the Hon Mr Justice Fung, has been established under the Steering Committee to oversee the implementation of CJR in the District Court.

With the substantial changes required to be made as well as the time required for the legislative process, information technology enhancement and infrastructural changes, it is expected to take about at least three years to implement the recommendations in the Final Report.