



## 區域法院首席法官

### 撰文

## Message from the Chief Judge of the District Court

2000年《區域法院（修訂）條例》、新的《區域法院規則》和有關的《區域法院民事訴訟程序常規指引》已於2000年9月1日生效。這標誌著區域法院發展的一個里程碑，據此，區域法院不但民事管轄權擴大了，申索金額由12萬增加至60萬，其程序規則亦已重新作了全面的修訂；登記處亦經過重組，為了改善案件管理及提高司法工作的效率，區域法院司法常務官和副司法常務官（統稱為聆案官）均由具法律專業資格的人士擔任。聆案官亦會向沒有律師代表的與訟人發出指引，令他們雖然沒有律師代表但仍可以依照規則進行訴訟。而且，為了應付這額外的工作量，法院大樓內已增設了5個法庭。民事管轄權擴大後的首三個月內，入稟區域法院的民事案件幾乎增加了一倍，而高等法院原訟法庭亦已將可納入區域法院新管轄範圍內的案件，移交區域法院審理。區域法院將會成為中級民事法庭，並已準備就緒，而兩年之後會就現時的運作進行檢討，到時可能再擴大其民事管轄權。

The District Court (Amendment) Ordinance, 2000, the new Rules of the District Court and the relevant Practice Direction relating to civil proceedings in the District Court came into effect on 1 September 2000. It was a milestone for the District Court as not only the civil jurisdiction was increased from \$120,000 to \$600,000 in respect of monetary claims, a new set of comprehensive procedural rules was introduced and the Registry was reorganised with professionally qualified Registrar and Deputy Registrars, District Court (collectively referred to as Masters) for the improvement of case management and efficiency in the administration of justice. The masters will also give directions to parties who are unrepresented in order that they may comply with the rules in conducting litigation in person. Five new courtrooms have been constructed to cope with the increased workload. During the first three months of the increase in jurisdiction, the volume of civil cases in the District Court has almost doubled, and the Court of First Instance has transferred appropriate cases to the District Court. The District Court is poised to emerge as an intermediate civil court, and the operation will be under review in two years' time, with possibly further increase to the civil jurisdiction.

在刑事司法方面，複雜的商業詐騙及貪污等較嚴重罪行有關的案件，仍然由區域法院負責審理。候審時間一般能控制於指標預計之內。

家事調解試驗計劃已經在2000年5月2日展開。這計劃實施至今，饒有成效；已結案的訴訟中，雙方能和解的達百分之五十以上。在家事法管轄範圍內，我們會繼續努力，提倡以調解方式作為另一種解決婚姻糾紛的方法。



區域法院首席法官  
韓敬善

In the administration of criminal justice, the District Court has remained the forum for the more serious offences, including complicated commercial frauds and corruption cases. The waiting time for trial is generally well within the target.

The Pilot Scheme on Family Mediation has commenced on 2 May 2000. The scheme has been operating efficiently and settlement rate of the completed cases is over 50%. Efforts will continue to be made to promote alternative dispute resolution in the family law jurisdiction.

Richard N. Hawkes  
Chief Judge of the District Court

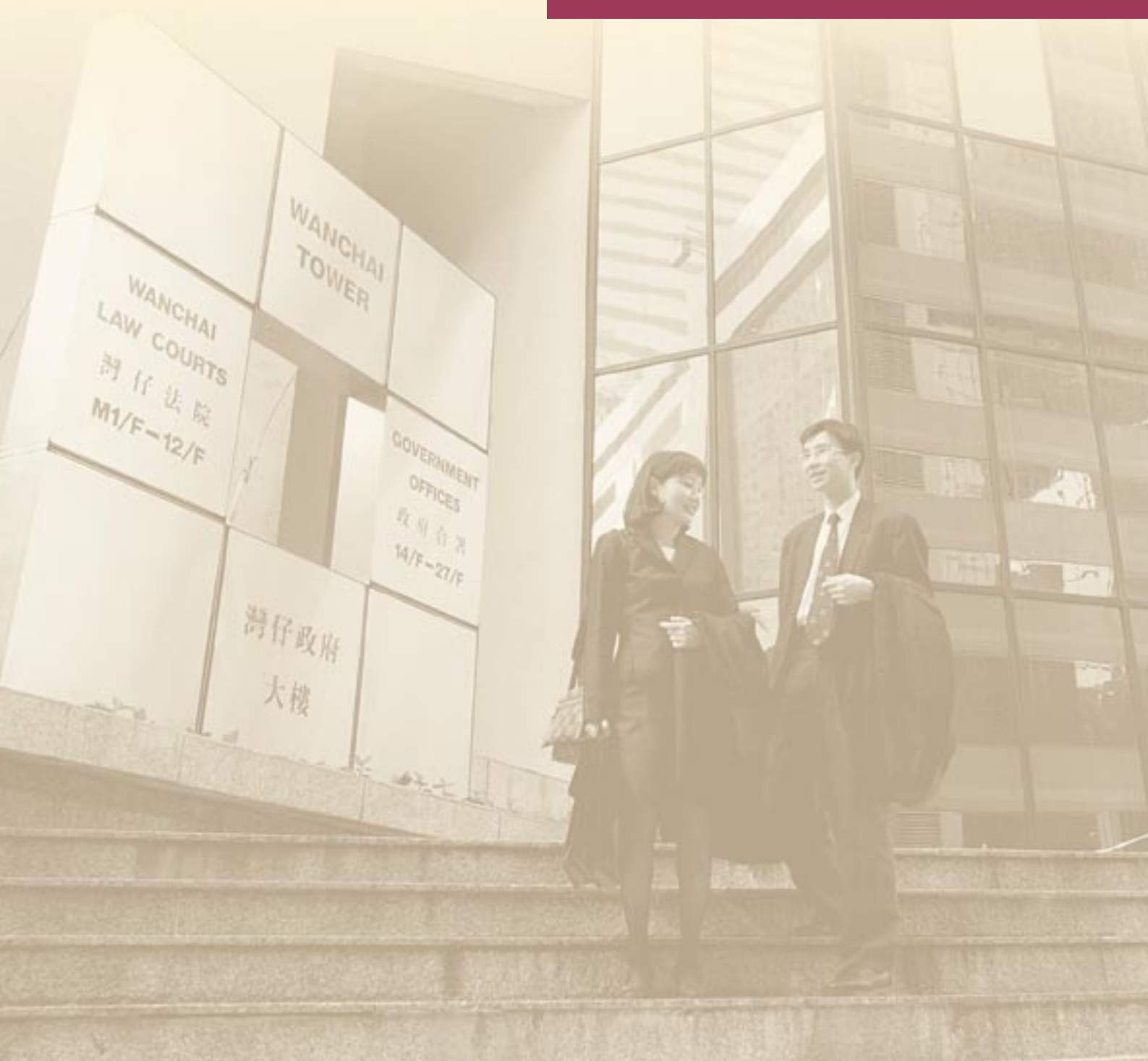


第三章

# 區域法院

CHAPTER 3

# District Court





## 區域法院

區域法院根據《區域法院條例》(第336章)成立，司法管轄範圍包括刑事和民事兩方面。

### 刑事司法管轄範圍

刑事司法管轄範圍包括除最嚴重的罪行如謀殺、誤殺和強姦以外的所有可公訴罪行。區域法院最高可判刑期為七年監禁。

### 民事司法管轄範圍

除法例另有規定外，民事司法管轄範圍只限於不超過60萬元(2000年9月1日前為12萬元)的申索；申索如涉及收回土地，或涉及土地權益，則以年值或應課差餉租值不超過24萬元為限(2000年9月1日前的限額為12萬元)。隨着司法管轄權限擴大之後，將有更多民事案件由高等法院轉交區域法院審理，這將有助減低訟費。

為了應付新司法管轄權限帶來的額外工作，司法機構已經落實多項措施，包括增加區域法院民事法庭法官、委任有經驗的法官專責處理人身傷害訴訟和土地案件、為區域法院法官提供培訓及增建法庭等。

所有根據《僱員補償條例》提出的申訴，所有不服勞工處處長、普通評估委員會和特別評估委員會就僱員補償事宜所作的決定而提起的上訴，都在區域法院進行聆訊。不服印花稅署署長的評稅而提起的上訴，亦由區域法院審理。

## DISTRICT COURT

The District Court is established under the District Court Ordinance (Cap. 336). It has both criminal and civil jurisdiction.

### CRIMINAL JURISDICTION

The criminal jurisdiction includes all indictable offences except the most serious ones such as murder, manslaughter and rape. The maximum term of imprisonment is seven years.

### CIVIL JURISDICTION

The civil jurisdiction is limited to claims up to \$600,000 (\$120,000 before 1 September 2000) unless otherwise provided for by statute; or where claims are for recovery of land, or the title to an interest in land comes in question, the annual value or rateable value does not exceed \$240,000 (\$120,000 before 1 September 2000). The increase in the financial jurisdictional limits will lead to a greater flow of civil cases from the High Court to the District Court. This will help reduce the litigation costs.

To cope with the additional workload resulting from the new jurisdictional limits, the Judiciary has put in place a number of measures. These include increasing the number of District Court judges in the civil division, appointing experienced judges to take charge of the personal injuries list and land cases, providing training for District Court judges, and constructing additional courtrooms.

Applications brought under the Employees' Compensation Ordinance and appeals from the decisions of the Commissioner for Labour, the Ordinary and Special Assessment Boards in relation to employee compensation matters are heard in the District Court. Appeals against the assessment of the



離婚、領養和其他與家事有關的訴訟程序必須在區域法院展開，有關監護權的除外。

區域法院的首長是區域法院首席法官，編制上共有 33 位法官。法院委派了六位法官專責處理家事訴訟。

### 區域法院司法常務官和副司法常務官

2000 年 9 月 1 日實施的《區域法院（修訂）條例》，擴大了區域法院的民事司法管轄權，隨之，新的區域法院規則亦已開始使用。新規則以《高等法院規則》為藍本制訂，全面規定了涉及巨額和較小款額的民事訴訟的程序綱領。

區域法院根據其新規則，並以高等法院聆案官制度為藍本，設立了聆案官制度。在編制上，有一位司法常務官和兩位副司法常務官，統稱為聆案官。

區域法院的聆案官與高等法院的不同，他們處理的是爭議性較小的非正審申請，而涉及重大爭議的事宜，則會由區域法院法官聆訊。此外，如申請人無律師代表，聆案官會進行指示聆訊，為案件擬定爭議範圍，並且給申請人必要的指示，以助他們做好審前準備。

### 區域法院登記處

區域法院登記處受理《區域法院條例》規定區域法院有權審理的民事申索。入稟的案件種類和高等法院相似，只是訴訟程序不可用動議或呈請的方式展開。有些案件例如司法覆核、海事、破產及公司清盤等，不可入稟區域法院；而有些不可向高等法院提出的申

Collector of Stamp Revenue also lie to the District Court.

Divorce, adoption and other family related matters, other than wardship, must be commenced in the District Court.

The District Court is headed by the Chief Judge of the District Court and has an establishment of 33 judges. Six judges are specially assigned to deal with family matters.

### REGISTRAR AND DEPUTY REGISTRARS OF THE DISTRICT COURT

With the implementation of the District Court (Amendment) Ordinance on 1 September 2000 bringing about the increase in civil jurisdictional limits, a new set of District Court Rules has become operational. The new Rules provide a comprehensive procedural framework for civil actions involving both substantial and modest sum. The new Rules are largely modelled on the Rules of the High Court where applicable.

In accordance with the new Rules, the system of Masters modelled on that of the High Court has been put in place in the District Court. There are one Registrar and two Deputy Registrars (collectively known as Masters) on the establishment.

Unlike their counterparts in the High Court, Masters in the District Court deal with the less contentious interlocutory applications whereas matters involving serious dispute are listed for hearing before District Judges. The Masters also conduct direction hearings for unrepresented parties in order to frame the issues in dispute and to give necessary directions in preparation for trial.



請，例如財物扣押申請、稅務局申請和僱員補償等，則可向區域法院提出。

區域法院設立了聆案官書記辦事處，目的是應付預期中大量的工作，並為新設的聆案官提供支援服務，以及藉此讓快將或有意在聆案官席前進行訴訟的人士獲得更周到的服務。區域法院內每日都有一位常規聆案官當值，專責在有需要時給訴訟人適當的指示。這種制度和前述「規則」結合起來，漸與高等法院的規則和常規愈來愈相似，這將會受到法律界歡迎。

與高等法院登記處一樣，區域法院訴訟事務櫃位的人員，可以即時為要求由聆案官評估訟費的申請人排期。不過預計大部分訟費單涉及數額會低於10萬元，因而須由總司法書記先行作臨時評估。在區域法院，設定法庭費用和經評估批准的訟費額都會較高等法院為低。

### 家事調解試驗計劃

2000年5月2日起，區域法院開始推行為期三年的家事調解試驗計劃，作為訴訟以外解決婚姻破裂引起的糾紛的另一種方法。



### DISTRICT COURT REGISTRY

The District Court Registry accepts lodging of civil claims which are within its jurisdiction as set out in the District Court Ordinance. The types of cases filed are comparable to those in the High Court except that no proceedings may be commenced by way of motion or petition. Judicial review, admiralty, bankruptcy and companies winding-up etc cases cannot be filed but some applications which cannot be filed in the High Court like Dstraint, Inland Revenue and Employees' Compensation Cases ("ECC") may be filed in the District Court.

To cope with the anticipated caseload and to provide support service to the newly created posts of Masters, and to better serve litigants appearing or wishing to appear before them, a Masters' Clerks' Office is set up as part of the District Court Registry. A Practice Master is on duty to give directions to litigants in need. The system, together with the new Rules, will gradually bring the rules and practices in the District Court closer to those in the High Court. This will be welcomed by the legal profession.

Like the High Court Registry, the Litigation Counter fixes dates for taxation before Masters instantly. However, it is envisaged that most of the bills will be below \$100,000 and thus subject to provisional taxation by Chief Judicial Clerks. Schedules of court fees and costs allowed on taxation will be lower in the District Court.

區域法院新設登記處提供一站式服務，為由聆案官審理的案件排期及處理有關文件

*The new Registry at District Court handling cases to be dealt with by Masters. It provides one-stop service including filing and listing of cases*



試驗計劃為正進行分居或離婚的夫婦而設，目的是協助他們就子女的撫養權或贍養費，和 / 或財務事宜，達成雙方可接受的協議，作為解決方案。這項調解服務，對婚姻訴訟人而言，可節省時間和金錢，又可減少發生衝突。試驗計劃至今運作順利，公眾的熱烈反應令人鼓舞。

為配合試驗計劃的推行，一項新實務指引(PD 15.10)已在2000年5月2日生效。該實務指引訂明了按試驗計劃進行婚姻訴訟的律師、訴訟人和調解員所應循的程序。



終審法院首席法官、原訟法庭法官夏正民(右)和家事法庭法官陳忠基(左)出席家事調解試驗計劃開幕典禮

*The Chief Justice, The Hon Mr Justice Hartmann, Judge of the Court of First Instance(right) and His Honour Judge Chan, Judge of the Family Court (left), at the pilot scheme launching ceremony*



(左至右)區域法院首席法官韓敬善、辛達誠法官、郭靄誠法官及丁雅賢法官出席開幕禮酒會

*His Honour Judge Hawkes, Chief Judge of the District Court, with District Court Judges (from left to right): Saunders, Carlson and Day at the cocktail reception*

## PILOT SCHEME ON FAMILY MEDIATION

As an alternative to litigation, a pilot scheme on family mediation to resolve disputes arising from breakdown of marriage was introduced on 2 May 2000 for a period of three years.

The scheme aims to assist the separating/divorcing couples to reach acceptable agreements for the custody/maintenance of their children and/or resolution of financial matters. The saving in time and costs as well as the reduction of possible conflicts is an incentive for parties to use mediation service. The implementation of the scheme has been smooth and the keen interest shown by the public is encouraging.

With the implementation of the pilot scheme on family mediation, a new Practice Direction (PD 15.10) has come into force on 2 May 2000. The Practice Direction prescribes the procedures under the pilot scheme which the legal practitioners, litigants and mediators should follow when matrimonial proceedings are instituted.

As at 30 September 2000, 76 information sessions were held and attended by more than 460 persons. Among the 150 cases referred for mediation, 72 cases have been completed, with 47 resulted in full settlement and four with partial settlement.





至 2000 年 9 月 30 日，共舉辦了 76 次講座，介紹該計劃，出席人數超過 460 人。經轉介進行調解的 150 宗個案中，有 72 宗已經完成調解，當中 47 宗可完全和解，4 宗部分和解。

司法機構委托了香港理工大學對這為期三年的試驗計劃進行檢討。檢討工作由 2000 年 5 月開始，主要的目的，是評估以調解作為訴訟以外解決婚姻糾紛的另一種方法成效有多大，及比較兩者所花的時間費用差距有多遠。該大學的研究小組已經開始發出問卷及通過會面，深入了解使用調解服務的人士及離婚人士的家人，以進行資料收集。司法機構正密切注視這項研究的進度，並會在 2002 年初完成中期報告。

### 案件量和輪候時間

相對於 1999 年來說，2000 年的刑事案件量保持穩定，而由於區域法院司法管轄範圍已擴大，預計民事案件量會再度增加。有見及此，我們已加強區域法院的案件管理系統，以配合其程序的需要。

2000 年整體來說，無論民事或刑事案件，候審時間都能控制於目標預計之內。



家事調解服務簡介講座  
Information session for people interested in seeking mediation service under the scheme

The Hong Kong Polytechnic University has been commissioned to evaluate the 3-year pilot scheme starting May 2000. The main objectives of the evaluation study are to assess the effectiveness of mediation as an alternative to litigation in resolving disputes in matrimonial matters, and to compare the time and costs spent in resolution by mediation against those by litigation. The research team has started collecting data from service users and family members of divorcees through questionnaires and indepth interviews. The progress is being monitored and a mid-term report will be compiled by early 2002.



調解員為試驗計劃參加者進行調解  
Mediator conducting mediation session for a couple participating in the scheme

### CASELOAD AND WAITING TIME

The criminal caseload remained steady in 2000. As for the civil cases, it is anticipated that the caseload will grow substantially due to the increase in jurisdictional limit of the District Court. To meet the challenge, the District Court case management system has been enhanced to cater for the newly introduced procedures.

For 2000, the target court waiting times for both civil and criminal cases were generally met.



表 7  
Table 7

區域法院的案件量  
CASELOAD OF THE DISTRICT COURT

		1999 案件數目 No. of Cases				
		承接往年 <sup>△</sup> Brought forward from previous years	送交 Filed	結案* Disposed of	訴訟中止# Inactive	訴訟進行中 In progress
		<b>刑事管轄 Criminal Jurisdiction</b>	刑事 Criminal	218	1 224	1 201
<b>民事管轄 Civil Jurisdiction</b>	1 民事 Civil	10 491	24 013	22 653	2 503	9 348
	2 欠租扣押申請 Distress for rent	1 075	12 301	12 147	24	1 205
	3 僱員賠償申索 Employee's compensation	363	1 100	1 204	1	258
	4 其他民事案件 <sup>+</sup> Other civil cases	1 731	2 717	1 773	520	2 155
	小計 Sub-total	13 660	40 131	37 777	3 048	12 966
	5 離婚訴訟 Divorce Jurisdiction					
	· 離婚案件 Cases	22 320	12 732	13 615	791	20 646
	· 雜項程序 Miscellaneous proceedings	158	220	41	45	292
	· 各類共同申請 Joint applications	237	1 001	814	80	344
	· 領養申請 Adoption applications	785	167	162	16	774
	小計 Sub-total	23 500	14 120	14 632 <sup>(1)</sup>	932	22 056
	民事案件總數 TOTAL (Civil)	37 160	54 251	52 409	3 980	35 022
	<b>合計 TOTAL</b>	<b>37 378</b>	<b>55 475</b>	<b>53 610</b>	<b>3 980</b>	<b>35 263</b>
訟費賬單評定 Taxation bills						
· 民事 Civil	0	611	456	155	0	
· 離婚 Divorce	0	2 033	2 033	0	0	
<b>合計 TOTAL</b>	<b>0</b>	<b>2 644</b>	<b>2 489<sup>(2)</sup></b>	<b>155</b>	<b>0</b>	



表 7  
Table 7

區域法院的案件量  
CASELOAD OF THE DISTRICT COURT

		2000 (截至9月30日 up to 30.9.2000) 案件數目 No. of Cases				
		承接往年* Brought forward from previous years	送交 Filed	結案* Disposed of	訴訟中止# Inactive	訴訟進行中 In progress
		<b>刑事管轄 Criminal Jurisdiction</b>	刑事 Criminal	241	942	926
<b>民事管轄 Civil Jurisdiction</b>	1 民事 Civil	9 348	14 304	14 431	2 453	9 271
	2 欠租扣押申請 Distress for rent	1 205	6 920	6 807	28	1 314
	3 僱員賠償申索 Employee's compensation	258	864	1 110	2	11
	4 其他民事案件+ Other civil cases	2 155	2 828	1 550	636	3 317
	小計 Sub-total	12 966	24 916	23 898	3 119	13 913
	5 離婚訴訟 Divorce Jurisdiction					
	· 離婚案件 Cases	20 646	9 400	9 641	1 282	19 914
	· 雜項程序 Miscellaneous proceedings	292	168	35	50	420
	· 各類共同申請 Joint applications	344	982	726	107	573
	· 領養申請 Adoption applications	774	114	127	10	767
	小計 Sub-total	22 056	10 664	10 529 <sup>(1)</sup>	1 449	21 674
	民事案件總數 TOTAL (Civil)	35 022	35 580	34 427	4 568	35 587
	<b>合計 TOTAL</b>	<b>35 263</b>	<b>36 522</b>	<b>35 353</b>	<b>4 568</b>	<b>35 844</b>
	訟費賬單評定 Taxation bills					
· 民事 Civil	0	551	329	169	208	
· 離婚 Divorce	0	1 706	1 706	0	0	
合計 TOTAL	0	2 257	2 035 <sup>(2)</sup>	169	208	



表 8  
Table 8

區域法院案件的輪候時間  
WAITING TIME FOR CASES IN THE DISTRICT COURT

	輪候時間 (日) Waiting Time (days)			
	目標 Target	1999	2000 (截至 9 月 30 日 as at 30.9.2000)	2001 (預計 Plan)
刑事案件 - 由被告人在區域法院首次出庭到聆訊日 Criminal cases – from first appearance of defendants in District Court to hearing	100	42	58	100
民事案件 - 由排期申請日到聆訊日 Civil cases – from application to fix date to hearing	120	81	78	120
離婚案件 - 由聆訊期訂定日到聆訊日 Dissolution of marriage – from setting down to hearing				
• 不擬抗辯案件 Undefended cases	56	41	40	56
• 特別程序案件 Special procedure cases	35	29	27	30
• 擬予抗辯案件(一天的聆訊) Defended cases (one day hearing)	110	91	84	110

△ 承接往年的案件指訴訟中止及訴訟進行中的案件。這些案件在1999年首次如此分類  
The figures brought forward from previous years refer to cases inactive and in progress. It is the first year to categorise the cases brought forward into inactive and in progress in 1999

\* 承接往年的案件指訴訟進行中的案件，並不包括訴訟中止的案件  
Cases brought forward from previous years to 2000 refer to cases in progress and do not include cases inactive

\* 結案指被告人被定罪 / 被判無罪 / 申索成功 / 申索撤銷 / 審訊或聆訊結束  
Disposed of refers to cases where defendants have been convicted/acquitted/successful claims/claims dismissed/trials or hearings concluded

# 訴訟中止指一年內沒有文件送交或聆訊  
Inactive refers to those having no action (including filing of document or hearing) for one year from the date of last filing of document

+ 其他民事案件指雜項程序、印花(條例)上訴案、平等機會訴訟及人身傷害案件  
Other civil cases refer to Miscellaneous Proceedings, Stamp (Ordinance) Appeals, Equal Opportunities Actions and Personal Injuries cases

註 1：結案指已發出最終離婚令或領養令  
Note 1: Disposed of refers to Decree Absolute granted and Adoption orders made

註 2：結案指已經處理的訟費賬單  
Note 2: Disposed of refers to taxation bills processed