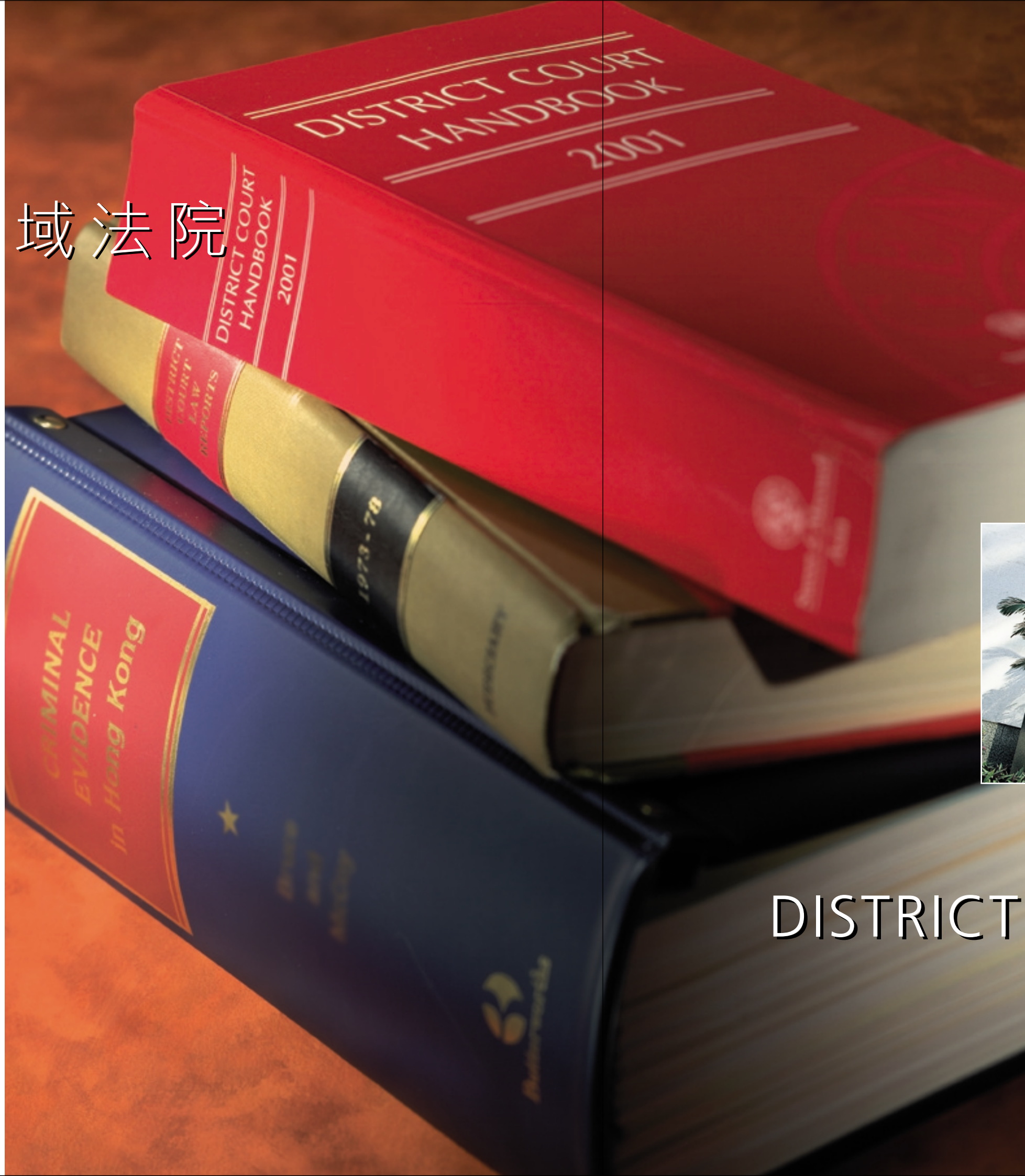


第四章

區域法院



Chapter 4

DISTRICT COURT

區域法院

區域法院根據《區域法院條例》(第 336 章)成立，司法管轄範圍有刑事和民事兩方面，民事方面包括婚姻訴訟管轄。

區域法院由區域法院首席法官領導，編制上共有 33 位法官、一位司法常務官和兩位副司法常務官。

民事司法管轄

2000 年 9 月 1 日，《區域法院(修訂)條例》生效後，除法例另有規定外，區域法院民事訴訟限額由港幣 12 萬元增至 60 萬元；申索如涉及收回土地或土地權益，則以年租或應課差餉租值或年值不超過港幣 24 萬元為限(2000 年 9 月 1 日前的限額為港幣 12 萬元)。

DISTRICT COURT

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

The District Court is headed by the Chief District Judge and has an establishment of 33 District Judges, one Registrar and two Deputy Registrars.

CIVIL JURISDICTION

Upon the commencement of the District Court (Amendment) Ordinance on September 1, 2000, the civil jurisdiction of the District Court has increased from HK\$120,000 to HK\$600,000 (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 rent or rateable value or annual value does not exceed HK\$240,000 (HK\$120,000 before September 1, 2000).



The Chief Justice, H H Judge Fung, the Chief District Judge (sixth left, first row) and Judges of the District Court



辯方律師結案陳詞
The defence counsel makes final submission

除了一般民事訴訟，區域法院有專屬管轄權審理根據《僱員補償條例》(香港法例第 282 章)提出的申索、欠租扣押和根據《稅務條例》(香港法例第 112 章)提出的追討稅項訴訟。

區域法院亦有權處理離婚、領養、家庭暴力和其他與家事有關的訴訟。所有婚姻訴訟，即使財務濟助的申索額超過一般民事訴訟的上限，區域法院仍可行使審判權。

刑事司法管轄

區域法院管轄的刑事案件，包括除最嚴重的案件如謀殺、誤殺和強姦等以外的所有可公訴罪行案件，亦包括由裁判法院移交的附可公訴罪行的簡易程序案件。區域法院最高可判七年監禁。區域法院的刑事案件由一位區域法院法官獨任審理，不設陪審團。

上訴司法管轄

區域法院亦根據多項條例如《印花稅條例》(香港法例第 117 章)、《肺塵埃沉着病(補償)條例》(香港法例第 360 章)和《職業性失聰(補償)條例》(香港法例第 469 章)等，行使有限的上訴管轄權，審理不服各審裁處和法定團體的判決而提起的上訴。

Apart from the general civil jurisdiction, the District Court has exclusive jurisdiction over claims brought under the Employees' Compensation Ordinance (Cap. 282), distress of rent and recovery actions brought under the Inland Revenue Ordinance (Cap. 112).

The District Court also has jurisdiction over divorce, adoption, domestic violence and other family related matters. The Court may exercise the matrimonial jurisdiction notwithstanding the amount of financial relief claimed is beyond its civil jurisdiction.

CRIMINAL JURISDICTION

The criminal jurisdiction of the District Court includes all indictable offences with the exception of the most serious ones such as murder, manslaughter and rape, as well as summary offences transferred together with an indictable offence. The maximum term of imprisonment that can be imposed is seven years. A District Judge sits alone without a jury in criminal trials.

APPELLATE JURISDICTION

The District Court also exercises limited appellate jurisdiction from Tribunals and statutory boards conferred by various Ordinances, e.g. the Stamp Duty Ordinance (Cap. 117), the Pneumoconiosis (Compensation) Ordinance (Cap. 360) and the Occupational Deafness (Compensation) Ordinance (Cap. 469).

民事司法管轄的擴大及 《區域法院規則》的實施

區域法院的民事司法管轄自 1988 年以來維持不變，2000 年 9 月 1 日首度擴大，擴大幅度不小，首年內，入稟的令狀數目已上升 202%（不包括稅務局追討稅項訴訟，因為這類訴訟不因民事司法管轄擴大而受影響）。案件種類亦比以往多，人身傷害訴訟等都屬新增類別。區域法院因其司法管轄擴大而可以審理一些本來不屬其管轄的案件，因此吸納了一些高等法院原訟法庭移交的案件，增加了案件量。此外，非正審申請的數目亦有所增加。

為了應付因民事司法管轄擴大而激增的案件量，區域法院民事法庭法官人數已相應增加。民事法官負責審理案件和處理聆案官送交的非正審申請。他們之中一人專責處理民事案件的審前覆核和排期事宜，另有一人主管人身傷害訴訟和僱員補償案件。

區域法院又設立了聆案官制度，以應付愈來愈多的非正審申請。



區域法院法官潘敏琦審理案件
H H Judge Poon, District Judge,
sits in a court hearing

THE INCREASE IN THE CIVIL JURISDICTIONAL LIMITS AND INTRODUCTION OF THE RULES OF THE DISTRICT COURT

The increase in the civil jurisdiction on September 1, 2000 was the first one since 1988. The increase is substantial and has resulted in 202% increase in the number of writs filed (excluding those relating to recovery actions by the Inland Revenue Department which are not affected by the increase in the civil jurisdiction) during the first year of operation. It has also brought new case types such as personal injuries actions to the District Court. Some of the increased caseload are transferred from the Court of First Instance as they have come within the increased jurisdictional limits of the District Court. The number of interlocutory applications has also increased.

To cope with the upsurge in caseload brought about by the increase in the civil jurisdiction, the number of civil judges has been increased. They handle trials and contested interlocutory applications adjourned by the Masters. A Civil Listing Judge is responsible for dealing with pre-trial reviews and listing of civil matters. Another Judge is charged to oversee personal injury actions and Employees' Compensation cases.

A system of Masters has also been put in place to deal with the increased number of interlocutory applications.



在區域法院進行的聆訊
A court hearing at the District Court

2000 年 9 月 1 日，新的《區域法院規則》開始實施。新規則全面規定了民事訴訟的程序綱領，大部分以《高等法院規則》為藍本制訂，借鑑了可適用於區域法院的條文，並對小額案件的處理作了規定。

《區域法院規則》的其中一項特別的內容是第 23A 號命令。根據第 23A 號命令，訴訟雙方可就訴訟如何進行協定某些指示和命令並以協定備忘錄形式記載，然後送交登記處入稟。這樣，協定指示和命令會如同法庭發出，一樣產生效力。訴訟人因此既不用發出傳票請求指示，又毋須出席聆訊，可節省不少時間和金錢。另一方面，如果訴訟人沒有入稟協定備忘錄，又沒有發出指示傳票，則第 23A 號命令第 5 條規則所規定的自動指示便會生效。

到目前為止，區域法院無論在應付額外的民事案件量或在實施新程序綱領方面，都相當順利。

A new set of Rules of the District Court became operational on September 1, 2000. The new Rules provide a comprehensive procedural framework for civil actions. The new Rules are largely modelled on the Rules of the High Court where applicable, with provision for dispensation in cases involving modest sum.

One of the special features of the Rules of the District Court is Order 23A. Under Order 23A, the parties can agree directions and orders for the conduct of the action and file with the Registry an agreed memorandum setting out the agreed directions and orders. Such agreed directions and orders will take effect as if they are made by the Court. This will save up the parties' time and expenses in taking out a summons for directions and attending the hearing. On the other hand, if no agreed memorandum is filed or no summons for directions is taken out, the automatic directions under Order 23A, rule 5 shall take effect.

The District Court is coping well with the increased civil caseloads and the new procedural rules.

家事法庭

家事法庭是區域法院的一部分，共有 6 位區域法院法官專責處理婚姻訴訟。

除有條文規定需要移交原訟法庭外，婚姻訴訟及其他根據《婚姻訴訟條例》(香港法例第 179 章) 提起的訴訟程序須於區域法院展開。實際上，超過 99% 的婚姻訴訟是在區域法院審理的。

家事調解試驗計劃

2000 年 5 月 2 日，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。

試驗計劃為申請分居或離婚的夫婦而設，目的是協助他們就子女的撫養權和贍養費，或就財務事宜，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，既可節省時間金錢，又可減少衝突。試驗計劃至今運作順利，公眾的熱烈反應令人鼓舞。



家事法庭
Family Court

FAMILY COURT

The Family Court is part of the District Court. Six District Judges are specially assigned to deal with matrimonial matters.

A matrimonial cause and other proceedings under the Matrimonial Causes Ordinance (Cap. 179) shall be commenced in the District Court, subject to the provision of transfer to the Court of First Instance. In practice, over 99% of all matrimonial causes are dealt with in the District Court.

PILOT SCHEME ON FAMILY MEDIATION

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

The scheme aims to assist the couples seeking divorce or separation in reaching mutual agreements for the custody and maintenance of their children as well as resolution of financial matters. The saving in time and costs and in particular, the reduction of possible conflicts, are possible incentives for parties to use the mediation service. The implementation of the scheme has been smooth and the keen interest shown by the public is encouraging.



調解統籌主任鄭楊雁好女士向公眾簡介家事調解服務
Mrs Doris Kuang, Mediation Coordinator, conducts information session for the public on mediation service

至 2001 年 9 月 30 日為止，共舉辦了 273 次有關的講座，出席人數超過 1567 人。經轉介進行調解的 516 宗個案中，有 350 宗已經完成調解，其中 247 宗可完全和解，29 宗部分和解。

司法機構委托了香港理工大學對這項計劃進行檢討，目的主要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相差有多遠。該研究小組現正發出問卷並與使用調解服務的人士和他們的家人、調解員、社會工作者、轉介案件的律師和法庭人員詳盡面談，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 3 月完成中期報告。



區域法院首席法官(左)與澳洲新南威爾斯首席法官會面
The Chief District Judge (left) and the Chief Justice of New South Wales, Australia, Mr Spigelman

As at September 30, 2001, 273 information sessions were held and attended by more than 1567 persons. Among the 516 cases referred to mediation, 350 cases have been completed, with 247 resulted in full settlement and 29 with partial settlement.

The Hong Kong Polytechnic University has been commissioned to conduct an evaluation study on the Scheme. 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 is collecting data from service users, their family members, mediators, social workers and lawyers who refer the cases to mediators, and court staff through questionnaires and in-depth interviews. The progress is being monitored and a mid-term report will be compiled by March 2002.



區域法院首席法官(左)會見安徽合肥市中級人民法院訪港團
The Chief District Judge (left) meets delegation members of the Anhui Intermediate People's Court, PRC

香港婚姻訴訟附屬濟助程序 改革工作小組

香港婚姻訴訟附屬濟助程序 1972 年制訂以來一直沿用至今。這些年來，傳統的婚姻觀念已經改變，每年的離婚呈請數字大幅上升。各方的意見認為，現行的附屬濟助訴訟程序會引起雙方不必要的怨懟，這不但無助於平復離婚造成的精神打擊，雙方亦往往因訟費負擔而耗盡家財。

近年來已有多個普通法國家試圖改革其婚姻訴訟附屬濟助程序。1999 年 11 月，終審法院首席法官委任夏正民法官為主席，成立了工作小組研究程序改革，盡量弱化訴訟的對抗形式，鼓勵以和解為目標，使糾紛得以用更快捷更廉宜的途徑解決。

經過一連串的會議後，工作小組建議推行一項排解婚姻訴訟財務糾紛的試驗計劃，並就有關建議進行最後審議。

區域法院登記處

區域法院登記處負責處理民事和刑事訴訟的入稟程序，並接受有關文件的存檔。

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。聆案官書記辦事處為聆案官提供支援服務，並為案件排期交由聆案官聆訊。

WORKING GROUP TO CONSIDER THE REFORM OF ANCILLARY RELIEF PROCEDURES IN MATRIMONIAL CASES IN HONG KONG

The legal regime which governs ancillary relief in matrimonial proceedings in Hong Kong has been in place since 1972. Traditional values on marriage have changed over the years and the number of divorce petitions filed each year has increased substantially. It is considered that the present proceedings for ancillary relief may lead to undue antagonism between the parties, and hence prolonging the emotional trauma of divorce, and often results in the dissipation of family assets in costs.

In recent years, a number of common law jurisdiction have introduced changes to ancillary relief in matrimonial proceedings. In November 1999, the Chief Justice appointed a Working Group chaired by the Hon Mr Justice Hartmann to consider reform aiming at more speedy and less costly resolution of the disputes, by encouraging a less adversarial and more settlement orientated approach.

Following a series of meetings, the Working Group is in the process of finalising its recommendations on a Pilot Scheme for Financial Dispute Resolution in Matrimonial Cases.

區域法院的聆案官負責處理訟費評估事宜和爭議性較小的非正審申請，而涉及重大爭議的事宜，則會排期由區域法院法官進行聆訊。區域法院每日都有一位常規聆案官當值，專責處理訴訟人單方面的申請，並在有需要時給訴訟人適當的指示。在訟費的評估方面，由於愈來愈多傾向於一次過評估訟費總額，所以採取臨時評估程序的情況大為減少。約有 70% 的案件，由法庭因一方未履行應履行的程序規定而下判決或作出簡易判決結案。

沒有律師代表的訴訟人，可能不太熟識第 23A 號命令中關於協定指示或自動指示的程序。為了照顧他們的權利，案中如果訴訟人一人或以上的沒有聘用律師，聆案官便可主動提出進行指示聆訊，並在這類聆訊中告知沒有律師代表的訴訟人他們有權申請法律援助或尋求法律意見，同時就案件未來如何進行給予其他必需指示。



區域法院登記處
The District Court Registry

THE DISTRICT COURT REGISTRY

The District Court Registry accepts filing of actions and other documents in civil and criminal proceedings.

In accordance with the new Rules of the District Court, a system of Masters modelled on that of the High Court has been put in place in the District Court. The establishment consists of the Registrar and two Deputy Registrars (collectively known as Masters). A Masters' Clerks' Office provides the support to the Masters and handles the fixing of hearings before the Masters.

The Masters of the District Court deal with taxation and interlocutory applications of a less contentious nature whereas matters involving serious dispute are listed for hearing before District Judges. A Practice Master is on duty daily to deal with ex-parte applications and to give directions to litigants in need. With the increase in the award of lump sum assessment of costs, the number of provisional taxation has been substantially reduced. The disposal rate of cases by way of default or summary judgment is about 70%.

To cater for litigants in person who may not be familiar with the procedure for agreed or automatic directions under Order 23A, the Masters may at their own motion call for a directions hearing where the case involves one or more parties acting in person. At such directions hearings, the Masters will inform the parties acting in person of their rights to apply for legal aid and to seek legal advice, as well as other necessary directions for the future conduct of the action.

家事法庭登記處

家事法庭登記處負責處理離婚呈請書和所有與婚姻訴訟有關的申請書的入稟程序。登記處人員在接納存檔之前，會先查核呈請書和申請書是否合乎規格。

司法機構得到香港家庭福利會的協助，在灣仔政府大樓 M1 樓設置兒童等候處。這項設施為需要出席家事法庭聆訊或使用調解服務的家長而設，免費為他們提供照顧兒童的臨時服務。等候處內有玩具、書籍和雜誌，並有香港家庭福利會委派的義工照顧兒童。

案件量和輪候時間

2000年9月1日至2001年9月30日期間，入稟的令狀（不包括稅務局追討稅項訴訟，因為這類訴訟不因民事管轄擴大而受影響）增加了202%，雜項訴訟程序（包括按揭及租購訴訟）增加了21%，非正審申請則增加了117%（由5 121宗增至11 138宗）。此外，區域法院處理了394宗人身傷害申索。

2001年整體來說，無論民事或刑事案件，候審時間都能維持於指標之內。

家事法庭的案件量在過去數年保持穩定。2001年整體來說，候審時間完全在指標之內。

THE FAMILY COURT REGISTRY

All petitions and related applications in matrimonial causes are filed with the Family Court Registry. The petitions and applications are checked by the Registry staff with a view to sorting out the irregularities before they are accepted for filing.

With the assistance of the Hong Kong Family Welfare Society, a children waiting area has been set up at M1 Floor of Wanchai Tower. The facility aims to provide free of charge temporary child care service for the parents who have to attend family court hearing or mediation. Toys, books and magazines for children are provided in the Area. The children are looked after by volunteers of the Society.

CASELOAD AND WAITING TIME

For the period September 1, 2000 to September 30, 2001, the number of writs filed (excluding those relating to recovery actions by the Inland Revenue Department which are not affected by the increase in the civil jurisdiction) has increased by 202%, and the number of miscellaneous proceedings (including mortgage and hire purchase actions) has increased by 21%. The District Court has also handled 394 personal injuries claims. The number of interlocutory hearings has also increased by 117% from 5 121 to 11 138 during the same period.

For 2001, the target court waiting time for both civil and criminal cases are generally achieved.

The caseload of the Family Court has remained steady in the past few years. The target waiting time of the Court is generally achieved for 2001.

		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	
刑事管轄 Criminal Jurisdiction	刑事 Criminal	241	1 229	1 177	0	293	
	民事 Civil	9 348	18 490	15 711	3 683	10 992	
	欠租扣押申請 Distress for Rent	1 205	9 024	8 992	28	1 233	
	僱員賠償申索 Employee's Compensation	258	1 110	1 244	3	122	
	其他民事案件 + Other civil cases	2 155	3 891	1 931	930	3 705	
小計 Sub-total		12 966	32 515	27 878	4 599	16 052	
民事管轄 Civil Jurisdiction	離婚訴訟 Divorce Jurisdiction						
	• 離婚案件 Cases	20 646	12 748	12 237	1 662	20 286	
	• 雜項程序 Miscellaneous Proceedings	292	229	36	59	471	
	• 各類共同申請 Joint applications	344	1 315	1 010	135	594	
	• 領養申請 Adoption applications	774	167	162	14	781	
	小計 Sub-total		22 056	14 459	13 445 ⁽¹⁾	1 870	22 132
	民事案件總數 Total (Civil)		35 022	46 974	41 323	6 469	38 184
	合計 Total		35 263	48 203	42 500	6 469	38 477
	訟費賬單評定 Taxation bills						
	• 民事 Civil	0	679	585	91	158	
• 離婚 Divorce	0	2 790	2 780	10	0		
合計 Total		0	3 469	3 365 ⁽²⁾	101	158	

		2001 案件數目(截至9月30日) No. of Cases (up to 30 Sept)				
		承接往年*	送交	結案*	訴訟中止#	訴訟進行中
		Brought forward from previous years	Filed	Disposed of	Inactive	In progress
刑事管轄 Criminal Jurisdiction	刑事 Criminal	293	853	735	0	411
	民事 Civil	10 992	16 561	11 836	5 876	13 479
民事管轄 Civil Jurisdiction	欠租扣押申請 Distress for Rent	1 233	6 185	6 110	175	1 161
	僱員賠償申索 Employee's Compensation	122	786	704	1	206
	其他民事案件 + Other civil cases	3 705	3 254	1 975	1 122	4 792
	小計 Sub-total	16 052	26 786	20 625	7 174	19 638
	離婚訴訟 Divorce Jurisdiction					
	• 離婚案件 Cases	20 286	10 104	8 679	1 141	22 232
	• 雜項程序 Miscellaneous Proceedings	471	163	23	17	653
	• 各類共同申請 Joint applications	594	1 180	965	102	842
	• 領養申請 Adoption applications	781	109	113	9	782
	小計 Sub-total	22 132	11 556	9 780 ⁽¹⁾	1 269	24 509
	民事案件總數 Total (Civil)	38 184	38 342	30 405	8 443	44 147
合計 Total	38 477	39 195	31 140	8 443	44 558	
訟費賬單評定 Taxation bills						
• 民事 Civil	158	1 074	836	92	395	
• 離婚 Divorce	0	2 370	2 362	0	18	
合計 Total	158	3 444	3 198 ⁽²⁾	92	413	

	目標 Target	輪候時間(日) Waiting Time (Days)		
		2000	2001 (截至9月30日) (as at 30 Sept)	2002 (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	56	96	100
民事案件 - 由排期日到聆訊日 § Civil cases - from date of listing to hearing	120	82	74	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	39	56	56
• 特別程序案 Special procedure cases	35	26	34	30
• 擬予抗辯案件(為期一天的聆訊) Defended cases (one day hearing)	110	84	78	110

☆ 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 refer to cases in progress and do not include cases inactive

* 結案指被告人被判有罪/被判無罪/申索成功/申索撤銷/審訊或聆訊結束
Disposed of refers to those 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、印花稅(條例)上訴案、平等機會訴訟、人身傷害案件、職業性失聰(補償)上訴案、肺塵埃沉着病(補償)上訴案及地產代理上訴案
Other civil cases refer to Miscellaneous proceedings, Stamp (Ordinance) Appeals, Equal opportunities actions, Personal injuries cases, Occupational deafness (compensation) appeals, Pneumoconiosis (compensation) appeals and Estate agents appeals

§ 自二零零零年九月《區域法院規則》(第336章)生效後，無須再入稟排期申請通知書，因此輪候時間改為排期日到聆訊日
Following the implementation of the new District Court Rules, Cap. 336 in September 2000, filing of the Notice of Application for setting down a case is no longer required. Hence, the measuring interval has to be changed to "from date of listing to hearing".

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)：結案指訟費賬單已處理
Note (2): Disposed of refers to taxation bills processed