

## LCQ20: Small claims

Following is a question by the Hon Paul Tse and a written reply by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, in the Legislative Council today (June 16):

Question:

In recent months, my office has received a growing number of requests for assistance related to the enforcement of small claims judgments. The assistance seekers indicated that they had filed a case at an earlier time against the debtor in the Small Claims Tribunal (SCT) and obtained a judgment in their favour, but the debtor still refused to pay the judgment sum, rendering the judgment de facto void. In addition, some members of the public have pointed out that despite an increase of the jurisdictional limit of SCT from \$50,000 to \$75,000 on December 3, 2018, such a claim limit is still a far cry from the amounts involved in civil disputes in recent years. In this connection, will the Government inform this Council:

(1) whether it knows if there was a significant increase in the number of cases filed in SCT in each year after the increase of the jurisdictional limit of SCT, when compared with that in each of the two years before the increase of the limit;

(2) whether it knows the number of applications for enforcement of SCT judgments received by the Bailiff Office of the Judiciary in the past two years; the number and percentage of cases in which the applicants successfully recovered the judgment sums;

(3) of the effective and feasible measures or channels, other than the channel mentioned in (2), currently in place to assist the party in whose favour the judgment has been given in recovering the judgment sum;

(4) whether it will consider (i) amending the legislation to empower adjudicators to impose penalty on those who have failed to comply with their judgments, and (ii) streamlining the procedure for enforcement of judgments to enable claimants to receive the judgment sums expeditiously after obtaining a judgment in their favour; if so, of the details; if not, the reasons for that; and

(5) whether it will further increase the jurisdictional limit of SCT (e.g. \$100,000) expeditiously, so as to respond to the demand of members of the public?

Reply:

President,

Based on the information provided by the Judiciary, the Government's

reply is as follows:

(1) and (5) The jurisdictional limit of the Small Claims Tribunal (SCT) has been increased from \$50,000 to \$75,000 with effect from December 3, 2018. The caseload of the SCT from 2017 to 2020 is as follows:

Claim amount (HK\$)	Caseload			
	2017	2018	2019	2020
\$50,000 or below	51,012	53,471	41,564	32,193
above \$50,000 and up to \$75,000	0	1,536	14,315	7,628
Total	51,012	55,007	55,879	39,821

The jurisdictional increase in December 2018 was made following a review by the Judiciary which took into account a host of factors, including the need to enhance access to justice, impact on demand for and operation of the SCT's services, changes in economic indicators as well as stakeholders' views, etc. The Judiciary has been closely monitoring the SCT's caseload since then.

The Judiciary originally planned to conduct a review to see if there was a case for further revision of the jurisdictional limit after around two years of implementation. However, the latest caseload statistics indicate only a small increase from 2018 to 2019, which was followed by a notable drop from 2019 to 2020. As court operations (including that of the SCT) have been affected by the COVID-19 pandemic since early 2020, the statistics may not adequately reflect the longer-term impact of the last jurisdictional change.

Any further adjustment of the SCT's jurisdictional limit would have a significant impact on the SCT's operation and caseload, hence delivery of its service to court users. The Judiciary considers it prudent to collate more data over a longer period with a view to assessing the need for any further changes to the SCT's jurisdictional limit.

(2) to (4) According to the Judiciary, as a matter of principle, the winning party (i.e. judgment creditors) in civil cases, including SCT cases, should bear the responsibility of enforcing the court's judgment.

In the event that the judgment debtor (i.e. the losing party) does not pay in full or at all, the winning party may, according to the law, apply to the court for orders to facilitate the enforcement of the judgment. For SCT cases, the winning party may apply to the SCT for a Writ of Fieri Facias by which the Bailiff Office of the Judiciary will be directed to seize the goods and chattels of the losing party and may conduct public auctioning of the goods seized as appropriate to satisfy the outstanding judgment debt.

The winning party may also consider enforcing the judgment in the District Court in the same manner as a judgment of that court. If so, the

winning party may apply to the court for various means to assist enforcement, including a Charging Order against the landed properties of the losing party, a Garnishee Order so that monies held by a third party (such as a bank) for the losing party can be applied to satisfy the payment, as well as an order prohibiting the losing party from leaving Hong Kong.

The procedure for the winning party to seek the SCT's assistance in enforcing outstanding judgment debts is not complicated. The winning party only needs to fill in a simple application form to provide the basic information, including the particulars of the losing party and the amount to be recovered.

While the SCT handled 1,867 and 1,410 applications for Writ of Fieri Facias in 2019 and 2020 respectively, the Judiciary does not have readily available statistics on the number or percentage of cases which have succeeded in recovering part or all of the outstanding judgment debt as a result of the Bailiff Office's execution.

Similar to other civil cases, whether the enforcement action taken by the Bailiff Office turns out to be effective in recovery of the outstanding judgment debt depends on a wide range of factors, including the initiation of the winning party, as well as whether the losing party is cooperative and has sufficient means to repay the debt. These go beyond the control and responsibility of the Judiciary.

The above enforcement measures provide safeguards to ensure that the losing party settles the outstanding judgment debt as far as his financial means permit.