

Statistics on the First Four Years' Implementation of the Civil Justice Reform from 2 April 2009 to 31 March 2013

I. Purpose

This note sets out the findings on the implementation of the Civil Justice Reform (“CJR”) for the first four years from 2 April 2009 to 31 March 2013.

II. Background

2. A CJR Monitoring Committee (“Monitoring Committee”) was established in April 2009 to monitor the working of the reformed civil justice system and to make suggestions to the Chief Justice to ensure its effective operation.

3. The Monitoring Committee considered that the collection of relevant statistics would help monitor the implementation of CJR. It endorsed a list of 32 key indicators in six broad areas for assessment of the effectiveness of CJR. The six broad areas are:

- (a) Delay;
- (b) Settlement;
- (c) Mediation;
- (d) Costs matters;
- (e) Litigants in person; and
- (f) How some individual changes (introduced by CJR) work out in practice.

4. Statistics on these 32 key indicators have been collated from available data by the Judiciary. Annual statistics for the first three years of implementation have been released separately. This note provides the updated position by including relevant findings of the “fourth year of the Post-CJR

Period” (i.e. from 1 April 2012 to 31 March 2013).¹

III. The Overall Context

5. To provide the overall context for the reading of the statistics, the following information is relevant :

Table 1.1: Number of Civil Cases and CJR Related Cases Filed in the Court of First Instance (“CFI”)

CFI	Pre-CJR Period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
Civil cases	24,552 ²	22,715 ³	16,047	15,970	17,210
CJR related cases ⁴	5,431	3,853	3,837	4,371	4,625

¹ In reading the statistics, it is important to bear the following factors in mind:

- (a) Many statistics cover 48 months only; for others, the period is even shorter;
- (b) To facilitate comparison with the Pre-CJR situation, statistics for the period from 2 April 2008 to 31 March 2009 are also presented where available. However, some Pre-CJR statistics are not available and for such statistics, no comparison can be made of the Pre-CJR and Post-CJR situation;
- (c) The definitions of some of the Pre-CJR statistics are different from the Post-CJR definitions. A simple comparison of these statistics can therefore be misleading. For example, prior to the implementation of CJR, disposal figures were based on party disposal, i.e. a case was treated as disposed of once one party in a case had been disposed of. This definition of disposal was not satisfactory as it did not cater for the situation where multiple parties were involved in a case. Since 2 April 2009, the definition has been refined to the effect that a case is considered as disposed of only when all the parties involved have been disposed of;
- (d) There was a bulge in caseload prior to the implementation of CJR. The last minute rush of cases filed before April 2009 should be noted when considering some of the statistics presented in the paper. For example, it substantially increased the number of interlocutory applications in the first year of the Post-CJR Periods despite the apparent drop in caseload in the same period;
- (e) The CJR initiatives may not have fully applied to those cases which straddle 2 April 2009 and the data for such cases do not represent a comprehensive picture of the impact of CJR; and
- (f) The case population for some key indicators may be very small in comparison with the total caseload.

² The figure is updated to exclude the number of civil cases filed on 1 April 2008 which was wrongly included in past statistics.

³ The figure is updated to exclude the number of civil cases filed on 1 April 2009 which was wrongly included in past statistics.

⁴ CJR related cases refer to those cases where CJR is applicable. Amongst all civil cases filed in the CFI, CJR is only applicable to six civil case types, i.e. Civil Action (HCA), Miscellaneous Proceedings (HCMP), Personal Injuries Action (HCPI), Commercial Action (HCCL), Construction and Arbitration Proceedings (HCCT) and Admiralty Action (HCAJ), and where the originating document is a writ or an originating summons.

6. In the CFI, the overall civil caseload during the Post-CJR Periods was all lower than that of the Pre-CJR Period. The drop in the second and third years was mainly due to the sharp decrease in bankruptcy and companies winding-up cases. The number of such cases increased in the fourth year and led to the corresponding rise in the overall civil caseload that year. Besides, the caseload for the CJR related cases in the third and fourth years of the Post-CJR Periods increased by 14% and 6% respectively year-on-year, mainly because of the increase in civil actions and personal injuries (“PI”) actions.

Table 1.2: Number of Civil Cases and CJR Related Cases Filed in the District Court (“DC”)

DC	Pre-CJR Period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
Civil cases	29,092 ⁵	24,830 ⁶	22,731	22,079	20,423
CJR related cases ⁷	19,990	15,765	15,274	15,103	13,573

7. In the DC, the overall civil caseload and the caseload for the CJR related cases during the first three years of Post-CJR Periods remained more or less at the same level. Nevertheless, in the fourth year of the Post-CJR Periods, the overall civil caseload and the caseload for the CJR related cases dropped by 8% and 10% respectively year-on-year, mainly due to the decrease in civil actions and tax claims.

IV. Specific Aspects of CJR

(A) A Change of Culture

8. The key to the success of CJR lies in a change of culture in the conduct of the court proceedings and dispute resolution on the part of Judges and the legal profession. To achieve this objective, it is the duty of parties and

⁵ The figure is updated to exclude the number of civil cases filed on 1 April 2008 which was wrongly included in past statistics.

⁶ The figure is updated to exclude the number of civil cases filed on 1 April 2009 which was wrongly included in past statistics.

⁷ CJR related cases refer to those cases where CJR is applicable. Amongst all civil cases filed in the DC, CJR is only applicable to six civil case types, i.e. Civil Action (DCCJ), Miscellaneous Proceedings (DCMP), Personal Injuries Action (DCPI), Employee’s Compensation Case (DCEC), Tax Claim (DCTC) and Equal Opportunities Action (DCEO), and where the originating document is a writ (including writ-alike) or an originating summons.

their legal representatives to help the court further the underlying objectives in the Rules of the High Court and Rules of the District Court, i.e. enhancing cost effectiveness, facilitating expeditious processing and disposal of cases, promoting a sense of reasonable proportion and procedural economy, ensuring fairness, facilitating settlements and ensuring the fair distribution of limited court resources. In order to ensure that disputes are effectively resolved, in and out of court, parties and their legal representatives are expected to be less adversarial and more cooperative.

9. In the fourth year of CJR, the Judiciary notes that the change of culture continued along the right track. By now, the legal profession and the public are much more acquainted with the new initiatives under CJR.

10. Apart from the above, Judges have taken up their case management roles more seriously to prevent abuses and excesses that may delay trials and increase costs. For example, Judges are now able to appraise the true nature and extent of the issues at a relatively early stage so that appropriate directions may be given in a more timely manner. Parties and their legal representatives are expected to display the same attitude to avoid delay in trials.

11. The Judiciary also notes that parties and their legal representatives have been adopting a more cost-conscious, efficiency-conscious and sensible approach in litigation, as compared with the Pre-CJR Period. For instance :

- (a) they are now more aware of the need to consider mediation as alternative dispute resolution. More and more of them are adopting the desired attitude when considering or adopting mediation;
- (b) they are more responsive to active case management by Judges. They are also more attuned to the needs and expectations of the court, such as taking early preparatory actions before trials and putting forward more realistic and practicable case management timetable/actions. They may further curtail procedural excesses e.g. trimming down the volume of case bundles and reducing the number of interlocutory applications; and
- (c) sanctioned payments under Order 22, sanctioned payments on costs under Order 62A and summary assessment of costs continue to be adopted effectively under CJR.

12. Nevertheless, a change of culture, as always, is a gradual process. It would probably take more time before the full impact of CJR could be realized. The situation should continue to be monitored.

(B) Delay

13. One of the underlying objectives of CJR is to ensure that a case is dealt with as expeditiously as is reasonably practicable. This is achieved by streamlining civil procedures, cutting out unnecessary interlocutory applications, imposing more stringent timetables, a greater use of peremptory orders and a more active approach in dealing with interlocutory applications (particularly where Case Management Conferences (“CMCs”) are concerned).

(a) Number of Interlocutory Applications⁸

14. The proliferation of interlocutory applications has been regarded as one of the most serious causes of delay and additional expense in the litigation process. CJR aims to reduce, if not eliminate, the number of interlocutory applications of doubtful or little value.

Table 2.1: Number of interlocutory applications in the CFI

CFI	Pre-CJR Period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
Number of interlocutory applications	2,786	3,149	2,914	2,992	3,265

15. In the CFI, the numbers of interlocutory applications listed for hearings during the Pre-CJR Period and the first three years of the Post-CJR Periods were comparable. For the fourth year, the number increased by 9% year-on-year, which was broadly consistent with the growth in the caseload for the CJR related cases that year.

⁸ The number of interlocutory applications listed for hearings does not include those arising from CMCs and Case Management Summons hearings. Interlocutory applications dealt with on paper or additional summons(es)/interlocutory application(s) that may have been taken out at the same listed hearing for an interlocutory application are not counted either.

Table 2.2: Number of interlocutory applications in the DC

DC	Pre-CJR Period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
Number of interlocutory applications	Not available	1,171	1,032	854	838

16. In the DC, the numbers of interlocutory applications listed for hearings during the Post-CJR Periods were consistently on a decreasing trend. It dropped from 1,171 in the first year of the Post-CJR Periods to 1,032 in the second year, to 854 in the third year and further to 838 in the fourth year. As the DC cases generally involve relatively smaller amounts of claims than the CFI ones, parties are more likely to avoid making unnecessary interlocutory applications.

(b) Number of Paper Disposals

17. Paper disposal is a new feature introduced by CJR. Significant savings in time and costs may be achieved by having interlocutory applications dealt with on paper without a hearing in appropriate cases.

Table 3.1: Number of Paper Disposals of Interlocutory Applications under Order 32, rule 11A in the CFI

CFI	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Number of interlocutory applications before Master	1,139	931	836	1,023
Number of paper disposals	32	23	8	6

18. In the CFI, the number of paper disposals of interlocutory applications under Order 32, rule 11A was on a steady trend over the four years of the Post-CJR Periods.

Table 3.2: Number of Paper Disposals of Interlocutory Applications under Order 32, rule 16A in the DC

DC	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Number of interlocutory applications before Master	272	213	195	196
Number of paper disposals	4	2	0	0

19. In the DC, there were only very few paper disposals of the relevant interlocutory applications in the first and second years of the Post-CJR Periods, with even none during the third and fourth years.

20. The relatively small number of paper disposals is partly due to the fact that simple applications are usually disposed of on-the-spot at the three-minute hearings routinely held for all such interlocutory applications, without going into further hearings or paper disposal.

21. Moreover, the above figures do not capture the position concerning some non-interlocutory applications disposed of on paper by Masters and the use of paper disposal by civil Judges in general. The Judiciary notes that some other applications (outside the context of Order 32, rule 11A in the CFI and Order 32, rule 16A in the DC as captured above) have been disposed of on paper by Judges.

(c) Number of Case Managements Conferences (“CMCs”)

22. CMC is an important tool of active case management under CJR. At a CMC, the court gives directions leading up to the trial of the action, and fixes a date for a pre-trial review (“PTR”) and / or a trial date or period in which the trial is to take place. It is also the occasion for the court and the parties to discuss in detail the true nature of the issues in the case. In doing so, not only is there more efficient and effective management of the case achieved, this would also facilitate settlements.

Table 4.1: Number of CMCs in the CFI

CFI	Pre-CJR Period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
	Number of checklist hearings	Number of checklist hearing/ CMCs	Number of CMCs	Number of CMCs	Number of CMCs
CJR related cases (excluding PI cases) ⁹	779	839	865	771	795

23. In the CFI, the numbers of CMCs during the four years of CJR implementation are comparable and similar to the number of checklist hearings in the Pre-CJR Period.

Table 4.2: Number of CMCs in the DC

DC	Pre-CJR Period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
	Number of PTR by Master	Number of CMCs	Number of CMCs	Number of CMCs	Number of CMCs
CJR related cases (excluding PI cases) ⁹	539	648	788	748	590

24. In the DC, the number of CMCs has decreased in the fourth year to a level comparable to the Pre-CJR period. This is because in streamlining the management of cases, there was a more efficient use of the oral/paper case management summons (“CMS”) to resolve case management issues before fixing CMCs. Further, some simple and straightforward cases (e.g. default of payment of a simple oral loan agreement or claims for good sold and delivered) were set down for trials in the CMS hearings without any CMCs.

25. The above statistics do not include PI cases. For PI cases, a summary showing the number of PI cases disposed of and average number of Checklist Review Hearing (CLR) / CMC / (PTR) with breakdown by trial and without trial per case is at **Annex I**.

⁹ For PI cases, please refer to **Annex I**.

(d) Number of Milestone Dates Fixed and Then Varied

26. Instead of leaving the progress of actions in the hands of parties (which was the pre-CJR position), the court now assumes much greater control over the progress of actions. Firm timetables are set at an early stage of proceedings. A court-determined timetable takes account of the needs of the particular case and the reasonable requests of the parties. The timetable sets out milestone dates for the major steps in any proceedings, such as the dates for trial and other important hearings. Only in the most exceptional circumstances will a milestone date be changed. This arrangement will reduce delays.

Table 5.1: Number of Milestone Dates Fixed and Then Varied in the CFI

CFI	Post-CJR Periods											
	1 st Year			2 nd Year			3 rd Year			4 th Year		
	Number of hearings fixed (a)	Number of hearings varied (b)	% (b)/(a)	Number of hearings fixed (a)	Number of hearings varied (b)	% (b)/(a)	Number of hearings fixed (a)	Number of hearings varied (b)	% (b)/(a)	Number of hearings fixed (a)	Number of hearings varied (b)	% (b)/(a)
CMC	865	76	9%	916	118	13%	785	100	13%	812	120	15%
PTR	320	22	7%	287	15	5%	239	16	7%	249	7	3%
Trial	419	27	6%	476	33	7%	350	27	8%	325	20	6%

27. In the CFI, the percentages of dates of hearings at milestone stages which were varied in the Post-CJR Periods remained at a reasonably low level. In particular, the percentages of varied PTRs and trials decreased in the fourth year of the Post-CJR Periods.

Table 5.2: Number of Milestone Dates Fixed and Then Varied in the DC

DC	Post-CJR Periods											
	1 st Year			2 nd Year			3 rd Year			4 th Year		
	Number of hearings fixed (a)	Number of hearings varied (b)	% (b)/(a)	Number of hearings fixed (a)	Number of hearings varied (b)	% (b)/(a)	Number of hearings fixed (a)	Number of hearings varied (b)	% (b)/(a)	Number of hearings fixed (a)	Number of hearings varied (b)	% (b)/(a)
CMC	742	30	4%	820	49	6%	782	48	6%	634	38 ¹⁰	6%
PTR	138	5	4%	168	3	2%	133	2	2%	167	1	1%
Trial	577	15	3%	496	21	4%	332	15	5%	380	16	4%

28. The percentages of dates of hearings at milestone stages which were varied in the DC in the fourth year of the Post-CJR Periods increased for the CMC stage, but remained low for the PTR and trial stages. While more stringent case management measures were adopted and less interlocutory applications were made, those interlocutory applications which were actually heard and argued in the DC were getting more complicated. This in turn caused more variations of the timetables and CMC dates in the fourth year.

29. In general, better control and case management by both courts has reduced the delay in the case process. It is however noted that certain factors other than that mentioned in paragraph 28 above might still lead to an inevitable variation of CMC dates, e.g. appeals filed against a Master’s decision right before a CMC and late applications by parties etc.

Average Time Spent

30. The average periods of time spent on cases from commencement to trial and from the first CMC to end of trial are useful indicators to show how expeditiously cases are being disposed of.

(i) *From commencement to trial*

31. Three sets of data are set out below on the number of cases with:

- (a) cases commenced in Pre-CJR Period with trial in Pre or Post-CJR Periods (Set 1);

¹⁰ 42 varied CMC hearings which were stayed pending the determination of FACV15/2011 and CACV267/2011 were excluded from the calculation.

- (b) cases with commencement and trial within the same year of Post-CJR Periods (Set 2); and
- (c) cases with commencement and trial within Post-CJR Periods (Set 3).

Table 6.1: Average Time from Commencement to Trial in the CFI

Set 1: Cases commenced in Pre-CJR Period with trial in Pre or Post-CJR Periods

CFI Trial Date	Pre-CJR Period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
Number of Trial Hearings	209 ¹¹	247 ¹²	187 ¹³	86 ¹⁴	55 ¹⁵
Average Time from Commencement to Trial (days)	972	1,087	1,246	1,417	1,701

Set 2: Cases with commencement and trial within the same year of Post-CJR Period

CFI Commencement Date & Trial Date	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Number of Trial Hearings	16	18	12	6
Average Time from Commencement to Trial (days)	167	155	153	226

¹¹ Three exceptionally long cases for which the duration from commencement to trial was over ten years were excluded from the calculation. The cases were delayed because of reasons beyond control. Such exceptionally long cases were included in the calculation in the past papers for evaluation of the first, first two and first three years of the CJR implementation.

¹² Four exceptionally long cases for which the duration from commencement to trial was over ten years were excluded from the calculation. The cases were delayed because of lack of expedition of preparation in general and the inaction of parties. Such exceptionally long cases were included in the calculation in the past papers for evaluation of the first, first two and first three years of the CJR implementation.

¹³ Seven exceptionally long cases for which the duration from commencement to trial was over ten years were excluded from the calculation. Such exceptionally long cases were included in the calculation in the past papers for evaluation of the first two and first three years of the CJR implementation.

¹⁴ Seven exceptionally long cases for which the duration from commencement to trial was over ten years were excluded from the calculation. Such exceptionally long cases were included in the calculation in the past paper for evaluation of the first three years of CJR implementation.

¹⁵ Twelve exceptionally long cases for which the duration from commencement to trial was over ten years were excluded from the calculation.

Set 3: Cases with commencement and trial within Post-CJR Periods

CFI	Post-CJR Periods			
	1 st Year	1 st & 2 nd Years (Accumulative)	1 st , 2 nd & 3 rd Years (Accumulative)	1 st , 2 nd , 3 rd & 4 th Years (Accumulative)
Number of Trial Hearings	16	70	163	295
Average Time from Commencement to Trial (days)	167	277	436	583

32. It is worth noting that the CJR effect could not be fully reflected by the cases under Set 1 as these cases were commenced before the implementation of CJR.

33. As for Set 2, which covers the cases with commencement and trial within the same year of the Post-CJR Periods, the numbers of cases involved are very small. This shows that such simple and straightforward cases, which could be disposed of within a few months' time, were not typical ones in the CFI.

34. As regards Set 3, which covers CJR cases with commencement and trial within the first four years of the Post-CJR Periods, the overall population of cases is higher as they also include more complicated cases which are more typical for the CFI. The average time from commencement to trial for this bigger pool is longer than that for Set 2. Moreover, some existing complicated cases may take more time before trial and more new complicated cases may be added onto the data pool. Such average processing time may therefore continue to increase in the coming few years until it possibly flats off at a certain juncture. We will continue to monitor the trend closely.

Table 6.2: Average Time from Commencement to Trial in the DC

Set 1: Cases commenced in Pre-CJR Period with trial in Pre or Post-CJR Periods

DC	Pre-CJR Period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
Number of Trial Hearings	269	299	193	37 ¹⁶	29
Average Time from Commencement to Trial (days)	704	743	942	1,345	1,655

¹⁶ One exceptionally long case for which the duration from commencement to trial was over ten years was excluded from the calculation. Such exceptionally long case was included in the calculation in the past paper for evaluation of the first three years of the CJR implementation.

Set 2: Cases with commencement and trial within the same year of Post-CJR Period

DC	Post-CJR Periods			
Commencement Date & Trial Date	1 st Year	2 nd Year	3 rd Year	4 th Year
Number of Trial Hearings	16	20	9	11
Average Time from Commencement to Trial (days)	134	159	120	197

Set 3: Cases with commencement and trial within Post-CJR Periods

DC	Post-CJR Periods			
Commencement Date & Trial Date	1 st Year	1 st & 2 nd Years (Accumulative)	1 st , 2 nd & 3 rd Years (Accumulative)	1 st , 2 nd , 3 rd & 4 th Years (Accumulative)
Number of Trial Hearings	16	158	332	550
Average Time from Commencement to Trial (days)	134	345	434	515

35. Similar to the situation for the CFI above, the CJR effect could not be fully reflected by the cases under Set 1 for the DC above as these cases were commenced before the implementation of CJR.

36. As for Set 2, which covers the cases with commencement and trial within the same year of the Post-CJR Periods, the numbers of cases involved are very small. This echoes the situation for the CFI, i.e. such simple and straightforward cases were not typical ones in the DC either.

37. As regards Set 3, which covers CJR cases with commencement and trial within the first four years of the Post-CJR Periods, the overall population of cases is higher as they also include more complicated cases in the DC. Similar to the CFI, the average time from commencement to trial for this bigger pool is longer than that for Set 2. This is probably due to reasons similar to those of the CFI and we expect similar trend as that for the CFI as set out in paragraph 34 above. We will also continue to monitor the trend closely.

(ii) *From the first CMC to end of trial*

Table 7.1: Average Time from First CMC to End of Trial in the CFI

CFI	Post-CJR Periods						
	1 st Year	2 nd Year		3 rd Year		4 th Year	
1 st CMC Date	<i>1st Year</i>	<i>2nd Year</i>	<i>1st & 2nd Years (inclusive)</i>	<i>3rd Year</i>	<i>1st, 2nd & 3rd Years (inclusive)</i>	<i>4th Year</i>	<i>1st, 2nd, 3rd & 4th Years (inclusive)</i>
Number of cases disposed of	8	5	67	7	83	4	91
Average time required (days)	<i>150</i>	<i>148</i>	349	<i>70</i>	435	<i>251</i>	546

38. For the second, third and fourth years of the Post-CJR Periods, two sets of data are set out above for comparison for the CFI.

39. For the small number of cases which could have their first CMC and disposal taking place within the same year (i.e. *figures in italic*), the relatively short average time required probably reflects that they were very simple and straightforward. We also note that the variations among the average time required for disposal of the cases within the first four years of the Post-CJR Periods (from 70 days to 251 days) are large, probably because of the small number of related cases in a year.

40. As regards the CFI cases with the first CMC hearing within the first two, first three and first four years of the Post-CJR Periods respectively (i.e. non-italic figures), since they captured a larger pool of cases (including the more complicated ones) as the number of years taken into account increases, it is understandable that the average time is longer. In fact, similar to the analysis in paragraph 34 above, it is probable that the average time may continue to increase in the coming few years before it possibly stabilizes.

Table 7.2: Average Time from First CMC to End of Trial in the DC

DC	Post-CJR Periods						
	1 st Year	2 nd Year		3 rd Year		4 th Year	
1 st CMC Date	<i>1st Year</i>	<i>2nd Year</i>	<i>1st & 2nd Years (inclusive)</i>	<i>3rd Year</i>	<i>1st, 2nd & 3rd Years (inclusive)</i>	<i>4th Year</i>	<i>1st, 2nd, 3rd & 4th Years (inclusive)</i>
Number of cases disposed of	23	21	126	20	103	23	98
Average time required (days)	181	134	224	131	283	159	280

41. We present the figures for the DC above in a similar way as those for the CFI. Two sets of data are set out for the second, third and fourth years of the Post-CJR Periods for comparison.

42. For the DC, the numbers of cases which could have their first CMC and disposal taking place within the same year (i.e. *figures in italic*) were also small. The relatively short average time required probably also reflects that they were very simple and straightforward.

43. As regards those cases with the first CMC hearing within the first two, first three and first four years of the Post-CJR Periods respectively (i.e. non-italic figures), since they captured a larger pool of cases (including the more complicated ones) as the number of years taken into account increases, it is probable that the average time may become longer until it possibly stabilizes. For the DC, it seems that the average time required has more or less settled when comparing that in the third and fourth years of the Post-CJR Periods. We will see whether this trend will continue in the years to come.

(iii) *Duration of trial*

44. Statistical data on two indicators, “Days fixed” and “Actual days spent”, were retrieved.

Table 8.1: Duration of Trial in the CFI

CFI	Pre-CJR Period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
Average number of days fixed	4.89	5.51	5.30	5.49	5.95
Average number of days spent	4.02	3.08	3.88	4.40	4.28

45. For the CFI, during the Post-CJR Periods, the average number of days fixed for trials increased in the third and fourth years. On top of that, the average number of days fixed for the first four years in the Post-CJR Periods was all longer than that in the Pre-CJR Period, reflecting a growing complexity of cases. However, the average number of days actually spent in the fourth year registered a year-on-year decrease, resulting in a slightly wider discrepancy between the average number of days fixed and average number of days spent for that year. This reflects the growing efforts of the Judges and Judicial Officers to compress the timetable during the pre-trial stage etc. by, for example, narrowing down the issues.

46. It is also noted that more cases could be disposed of at an earlier stage during the Post-CJR Periods than the Pre-CJR Period. As a result, delay in the litigation process has been avoided and less costs incurred. These are positive signs that the intended results of CJR were being achieved.

Table 8.2: Duration of Trial in the DC

DC	Pre-CJR Period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
Average number of days fixed	2.60	2.45	2.88	2.84	3.17
Average number of days spent	2.49	2.23	2.53	2.30	2.55

47. For the DC, there was a relatively stable trend for both the average numbers of days fixed and the actual days spent on trials, though the former showed a gradual upward trend during the Post-CJR Periods, suggesting a growing complexity of cases. The average numbers of days fixed and the corresponding average numbers of days actually spent were also very close. This probably reflects the relatively simpler nature of the DC cases in comparison with those in the CFI, which means easier estimation of trial time.

48. Similar to the CFI, we also note that more cases could now be disposed of at an earlier stage, resulting in less litigation time and costs.

(C) Settlement

49. A just settlement for the right reasons involves a timely settlement. Prior to CJR, a majority of the settlements did not occur until the eve of trial. Often, it was only when counsel was fully instructed in a case that a serious evaluation of the merits took place, leading to settlements being made.

(a) Admission under Order 13A

50. Order 13A provides a new procedure for a defendant in a money claim (both liquidated and unliquidated) to make admission and propose payment terms as to time and instalments to satisfy the claim.

Table 9.1: Admission under Order 13A in the CFI

CFI	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Number of CJR related cases filed (monetary claim only)	1,757	1,711	2,032	2,133
Number of admissions made ¹⁷	39	19	29	10
Number of applications for instalment ¹⁷	15	8	11	2
Number of cases disposed of by Order 13A ¹⁸	13	6	2	1

51. In the CFI, during the Post-CJR Periods, the number of applications of Order 13A and number of cases settled by Order 13A were very low. As the CFI cases normally involve relatively higher amounts of claims, the incentive for defendants to make an admission under Order 13A may be relatively lower.

¹⁷ Figures on (i) number of admissions made and (ii) number of applications for instalment include cases with their documents Form 16-Admission (liquidated amount) under O.13A/ Form 16C-Admission (unliquidated amount) under O.13A filed within the reporting period regardless of their case filing dates.

¹⁸ Figures on number of cases disposed of by Order 13A include cases with their case filing dates within the reporting period and disposed of as at the report generation date, and therefore may be subject to change. Figures cited therein at Table 9.1 were generated approximately one to two months after the end date of each year in the Post-CJR Periods. To have a full picture on the operation of Order 13A procedure, figures with position updated as at 18 July 2013 were 15, 6, 3 and 1 respectively for the first, second, third and fourth years of the Post-CJR Periods.

Table 9.2: Admission under Order 13A in the DC

DC	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Number of CJR related cases filed (monetary claim only)	14,155	13,874	13,665	12,212
Number of admissions made ¹⁹	364	312	414	300
Number of applications for instalment ¹⁹	300	255	313	185
Number of cases disposed of by Order 13A ²⁰	197	152	203	146

52. In the DC, during the Post-CJR Periods, there was some fluctuation in the number of applications of Order 13A and the number of cases settled by Order 13A. In particular, for the fourth year, both numbers dropped by about 28% year-on-year. We note that there was also a drop for civil actions and tax claims for the fourth year, which constituted a great majority of the number of cases settled by Order 13A.

(b) Sanctioned Payments

53. The making of a sanctioned payment is an offer made by way of a payment into court. Prior to CJR, only defendants could offer to settle by making a payment into court. Under CJR, both plaintiffs and defendants are able to make sanctioned payments, whether to settle claims or issues within claims (under Order 22) or to settle a party's entitlement to costs (under Order 62A). There are costs consequences should the sanctioned payment not be bettered. Sanctioned payment acts as a significant incentive for parties to settle disputes at an earlier stage. This is regarded as an important measure in the just and expeditious resolution of disputes.

¹⁹ Figures on (i) number of admissions made and (ii) number of applications for instalment include cases with their documents Form 16-Admission (liquidated amount) under O.13A/ Form 16C-Admission (unliquidated amount) under O.13A filed within the reporting period regardless of their case filing dates.

²⁰ Figures on number of cases disposed of by Order 13A include cases with their case filing dates within the reporting period and disposed of as at the report generation date, and therefore may be subject to change. Figures cited therein at Table 9.2 were generated approximately one to two months after the end date of each year in the Post-CJR Periods. To have a full picture on the operation of Order 13A procedure, figures with position updated as at 18 July 2013 were 212, 177, 223 and 153 respectively for the first, second, third and fourth years of the Post-CJR Periods.

(i) Order 22

Table 10.1: Number of Order 22 Sanctioned Payment Made and Accepted²¹ in the CFI

CFI	Pre-CJR Period	Post-CJR Periods							
		1 st Year		2 nd Year		3 rd Year		4 th Year	
	Payment-in made	Sanctioned payment made	<i>Sanctioned payment accepted</i>	Sanctioned payment made	<i>Sanctioned payment accepted</i>	Sanctioned payment made	<i>Sanctioned payment accepted</i>	Sanctioned payment made	<i>Sanctioned payment accepted</i>
Number of CJR related cases (excluding PI cases)	151	127	<i>15</i>	100	<i>11</i>	99	<i>24</i>	96	<i>26</i>
Number of CJR related cases (PI cases only)	826	1,786	<i>420</i>	1,255	<i>326</i>	1,160	<i>283</i>	1,353	<i>361</i>
Total	977	1,913	<i>435</i>	1,355	<i>337</i>	1,259	<i>307</i>	1,449	<i>387</i>

Table 10.2: Number of CJR Related Cases Disposed of by Order 22 Sanctioned Payment in the CFI

CFI	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Number of cases filed (excluding PI cases)	3,247	3,101	3,442	3,670
Number of cases filed (PI cases only)	606	736	929	955
Number of cases filed	3,853	3,837	4,371	4,625
Number of cases (excluding PI cases) disposed of by Order 22 sanctioned payment	2	2	8	8
Number of cases (PI cases only) disposed of by Order 22 sanctioned payment	51	58	54	71
Number of cases disposed of by Order 22²²	53	60	62	79

²¹ Figures on number of Order 22 Sanctioned Payment Accepted (*in italic*) include those Form 23-Notice Of Sanctioned Payment under O.22 accepted by way of the filing of Form 24-Notice Of Acceptance Of Sanctioned Payment under O.22 within/ beyond the prescribed time of 28 days as at the report generation date, and therefore may be subject to change. Figures cited therein at Table 10.1 were generated approximately one to two months after the end date of each year in the Post-CJR Periods. To have a full picture on the operation of Order 22 procedure, total figures with position updated as at 18 July 2013 were 528, 411, 405 and 416 respectively for the first, second, third and fourth years of the Post-CJR Periods.

²² Figures on number of cases disposed of by Order 22 include cases with their case filing dates within the reporting period and disposed of as at the report generation date, and therefore may be subject to change. Figures cited therein at Table 10.2 were generated approximately one to two months after the end date of each year in the Post-CJR Periods. To have a full picture on the operation of Order 22 procedure, figures with position updated as at 18 July 2013 were 177, 193, 184 and 104 respectively for the first, second, third and fourth years of the Post-CJR Periods.

54. For the CFI, during the Post-CJR Periods, the numbers of sanctioned payments made, the numbers of payments accepted and the numbers of cases disposed of by Order 22 did not show much fluctuation or any significant trend. Nevertheless, out of the sanctioned payments made in the Post-CJR Periods, the percentage of sanctioned payments accepted showed an overall gradual rising trend, with 23%, 25% and 24% in the first three years respectively and steadily rising to 27% in the fourth year. It seems that more parties were willing to adopt this procedure with a view to facilitating settlement in general.

Table 10.3: Number of Order 22 Sanctioned Payment Made and Accepted²³ in the DC

DC	Pre-CJR Period	Post-CJR Periods							
		1 st Year		2 nd Year		3 rd Year		4 th Year	
	Payment-in made	Sanctioned payment made	Sanctioned payment accepted	Sanctioned payment made	Sanctioned payment accepted	Sanctioned payment made	Sanctioned payment accepted	Sanctioned payment made	Sanctioned payment accepted
Number of CJR related cases (excluding PI and employee's compensation ("EC") cases)	221	207	55	224	87	270	131	158	63
Number of CJR related cases (PI cases only)	2,025	2,518	1,012	2,489	1,157	2,620	1,256	3,025	1,460
Number of CJR related cases (EC cases only)	1,070	1,398	702	1,304	774	1,608	1,033	1,821	1,128
Total	3,316	4,123	1,769	4,017	2,018	4,498	2,420	5,004	2,651

²³ Figures on number of Order 22 Sanctioned Payment Accepted (*in italic*) include those Form 23-Notice of Sanctioned Payment under O.22 accepted by way of the filing of Form 24-Notice of Acceptance of Sanctioned Payment under O.22 within/ beyond the prescribed time of 28 days as at the report generation date, and therefore may be subject to change. Figures cited therein at Table 10.3 were generated approximately one to two months after the end date of each year in the Post-CJR Periods. To have a full picture on the operation of Order 22 procedure, total figures with position updated as at 18 July 2013 were 1,904, 2,233, 2,650 and 2,770 respectively for the first, second, third and fourth years of the Post-CJR Periods.

Table 10.4: Number of CJR Related Cases Disposed of by Order 22 Sanctioned Payment in the DC

DC	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Number of cases filed (excluding PI and EC cases)	12,360	11,094	10,345	8,539
Number of cases filed (PI cases only)	1,965	2,432	2,666	2,729
Number of cases filed (EC cases only)	1,440	1,748	2,092	2,305
Number of cases filed	15,765	15,274	15,103	13,573
Number of cases (excluding PI and EC cases) disposed of by Order 22 sanctioned payment	35	27	43	30
Number of cases (PI cases only) disposed of by Order 22 sanctioned payment	319	292	469	694
Number of cases (EC cases only) disposed of by Order 22 sanctioned payment	378	382	539	518
Number of cases disposed of by Order 22²⁴	732	701	1,051	1,242

55. For the DC, similar to that for the CFI, out of the sanctioned payments made in the Post-CJR Periods, the percentage of sanctioned payments accepted was also on a rising trend, i.e. at 43%, 50%, 54% and 53% in the first four years respectively. Moreover, following a sharp increase of 44% and 50% in the third year of the post-CJR Periods in the number of cases disposed of by Order 22 as compared with the first and second years respectively, there was another increase of 18% year-on-year in the fourth year. This was despite a drop of 10% in the caseload for the CJR related cases in the fourth year. The increase was more evident in PI cases (with 48% year-on-year increase in the fourth year). The smaller amounts of claims and easier assessment of the likely damages for the DC cases may explain the continued popularity of Order 22 in the DC.

²⁴ Figures on number of cases disposed of by Order 22 include cases with their case filing dates within the reporting period and disposed of as at the report generation date, and therefore may be subject to change. Figures cited therein at Table 10.4 were generated approximately one to two months after the end date of each year in the Post-CJR Periods. To have a full picture on the operation of Order 22 procedure, figures with position updated as at 18 July 2013 were 1,280, 1,698, 2,111 and 1,553 respectively for the first, second, third and fourth years of the Post-CJR Periods.

(ii) Order 62A

Table 11.1: Number of Order 62A Sanctioned Payment Made and Accepted²⁵ in the CFI

CFI	Post-CJR Periods							
	1 st Year		2 nd Year		3 rd Year		4 th Year	
	Made	<i>Accepted</i>	Made	<i>Accepted</i>	Made	<i>Accepted</i>	Made	<i>Accepted</i>
Number of Order 62A sanctioned payments	78	<i>15</i>	64	<i>18</i>	60	<i>21</i>	50	<i>16</i>
Number of Order 62A sanctioned payments (without bills filed)	155	<i>84</i>	212	<i>102</i>	164	<i>81</i>	160	<i>94</i>
Total	233	<i>99</i>	276	<i>120</i>	224	<i>102</i>	210	<i>110</i>

56. In the CFI, the number of Order 62A sanctioned payments made and the number of payments accepted remained more or less stable during the four years of the Post-CJR Periods. Nevertheless, similar to Order 22 sanctioned payments, the acceptance rate for Order 62A sanctioned payments was on a clear rising trend, with 42%, 43%, 46% and as much as 52% in the first four years of the Post-CJR Periods respectively.

²⁵ Figures on number of Order 62A Sanctioned Payment Accepted (*in italic*) include those Form 93-Notice of Sanctioned Payment under O.62A accepted by way of the filing of Form 93A-Notice of Acceptance of Sanctioned Payment under O.62A within/ beyond the prescribed time of 14 days as at the report generation date, and therefore may be subject to change. Figures cited therein at Table 11.1 were generated approximately one to two months after the end date of each year in the Post-CJR Periods. To have a full picture on the operation of Order 62A procedure, total figures with position updated as at 18 July 2013 were 102, 127, 108 and 112 respectively for the first, second, third and fourth years of the Post-CJR Periods.

Table 11.2: Number of Order 62A Sanctioned Payment Made and Accepted ²⁶ in the DC

DC	Post-CJR Periods							
	1 st Year		2 nd Year		3 rd Year		4 th Year	
	Made	<i>Accepted</i>	Made	<i>Accepted</i>	Made	<i>Accepted</i>	Made	<i>Accepted</i>
Number of Order 62A sanctioned payments	97	<i>32</i>	83	<i>28</i>	57	<i>30</i>	58	<i>17</i>
Number of Order 62A sanctioned payments (without bills filed)	646	<i>427</i>	808	<i>539</i>	881	<i>619</i>	1,044	<i>757</i>
Total	743	<i>459</i>	891	<i>567</i>	938	<i>649</i>	1,102	<i>774</i>

57. In the DC, there was a clear increasing trend in the number of Order 62A sanctioned payments made and the number of payments accepted during the four years of the Post-CJR Periods. Moreover, a similar rising trend was observed for the acceptance rate of Order 62A sanctioned payments, with 62%, 64%, 69% and 70% in the first four years respectively.

(c) Sanctioned Offer

58. Sanctioned offer is an offer made (otherwise than by way of a payment into court) to settle claims or issues within claims (under Order 22) or a party's entitlement to costs (under Order 62A). Again, there are costs consequences should the sanctioned offer not be bettered after trial. It operates in a similar way and brings about similar benefits as the scheme of sanctioned payments.

59. The Judiciary does not have statistics on sanctioned offers, since they involve dealings between the parties outside the court, and there is no requirement for the parties to inform the court of the making of a sanctioned offer. Nevertheless, in order to have some data, the Registry has been sending out questionnaires since July 2009 to collect feedback on sanctioned offers after a case has been disposed of.

60. The information collected by the Registry through the questionnaires sent out during the nine-month period from July 2009 to March 2010, the 12-month period from April 2010 to March 2011, and similar 12-month periods for

²⁶ Figures on number of Order 62A Sanctioned Payment Accepted (*in italic*) include those Form 93-Notice of Sanctioned Payment under O.62A accepted by way of the filing of Form 93A-Notice of Acceptance of Sanctioned Payment under O.62A within/ beyond the prescribed time of 14 days as at the report generation date, and therefore may be subject to change. Figures cited therein at Table 11.2 were generated approximately one to two months after the end date of each year in the Post-CJR Periods. To have a full picture on the operation of Order 62A procedure, total figures with position updated as at 18 July 2013 were 482, 584, 668 and 781 respectively for the first, second, third and fourth years of the Post-CJR Periods.

2011-12 and 2012-13 respectively is set out at **Annex II**. The rate of distribution and return of the questionnaires, however, only constituted a small percentage of the total number of cases disposed of. Some parties did not fill in the form, there being no compulsion to do so. The information collected therefore does not present a comprehensive picture.

61. As before, we have tried to see if more information can be collated. In this regard, the following two departments of the Administration have been able to provide us with some further information relating to cases under their respective purview.

(i) *Department of Justice (“DoJ”)*

Table 12.1 : Number of Order 22 and Order 62A Sanctioned Offers Received and Accepted by DoJ

	Post-CJR Periods			
	3rd Year		4th Year	
	Received	<i>Accepted</i>	Received	<i>Accepted</i>
Order 22	46	8	11	7
Order 62A	6	3	2	2
Total	52	11	13	9

62. DoJ has been collecting the statistics for cases under its purview since the third year of the Post-CJR Periods. In the fourth year, the total number of sanctioned offers decreased from 52 to 13, but the rate of accepting such offers increased significantly from 21% in the third year to 69% in the fourth year.

(ii) *Legal Aid Department (LAD)*

Table 12.2 : Number of Sanctioned Offers handled by LAD and settled by Sanctioned Offers

	Post-CJR Periods			
	1st Year	2nd Year	3rd Year	4th Year
Number of legally aided cases handled in-house	132	151	99	171
Number of cases settled by sanctioned offer	0	0	1	2

63. Out of the number of cases handled by LAD in-house, the numbers settled by sanctioned offers remained low over the first four years of the Post-CJR Periods.

64. We consider that there is room for more education for lawyers to enhance their awareness of the benefits of sanctioned offers, thereby encouraging a greater use of this mechanism to achieve settlement.

(d) Costs-only Proceedings

65. To facilitate settlement, CJR introduced a new cause of action called “costs-only proceedings”. Such proceedings enable parties who have essentially reached settlement on their dispute and have also agreed on who should in principle pay the costs, but cannot agree on the amount of such costs, to apply for their costs to be taxed by the CFI or the Court of Appeal.

Table 13.1: Number of costs-only proceedings in the CFI

CFI	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Number of costs-only proceedings	0	0	2	0

66. In the CFI, there was no costs-only proceeding in the first four years of the Post-CJR Periods except that there were two such proceedings in the third year.

Table 13.2: Number of costs-only proceedings in the DC

DC	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Number of costs-only proceedings	1	2	4	2

67. In the DC, during the Post-CJR Periods, the numbers of costs-only proceedings also remained at a low level.

(D) Mediation

68. One of the initiatives under CJR is to promote the wider use of mediation to facilitate early and satisfactory settlement of disputes. A Practice

Direction 31 on “Mediation” applicable to all relevant civil cases in the CFI and the DC came into effect on 1 January 2010.

69. The number of mediation notices and that of cases directed by the court to report the progress of mediation from 1 April 2010 to 31 March 2013 are tabulated below. It should be noted that the figures relating to mediation set out for the period of “1.1.10-31.3.10” only covered three months as the Practice Direction only came into effect on 1 January 2010.

Table 14.1: Number of Mediation Notices in the CFI

CFI	Post-CJR Periods			
	1.1.10-31.3.10	2 nd Year	3 rd Year	4 th Year
CJR related cases (excluding PI cases)	113	579	507	462
CJR related cases (PI cases only)	108	523	566	673
Total	221	1,102	1,073	1,135

Table 14.2: Number of Cases Directed by the Court to Report the Progress of Mediation in the CFI

CFI	Post-CJR Periods			
	1.1.10-31.3.10	2 nd Year	3 rd Year	4 th Year
CJR related cases (excluding PI cases)	95	313	291	207
CJR related cases (PI cases only)	6	536	758	718
Total	101	849	1,049	925

70. In the CFI, during the second, third and fourth years of the Post-CJR Periods covering a period of 12 months in each year, the number of mediation notices remained more or less at the same level. The total number of cases directed by the court to report the progress of mediation in the second, third and fourth year remained comparable. These stabilizing figures may suggest a more well-established mediation culture and the likely percentage of cases that may be suitable for mediation in a year.

Table 15.1: Number of Mediation Notices in the DC

DC	Post-CJR Periods			
	1.1.10-31.3.10	2 nd Year	3 rd Year	4 th Year
CJR related cases (excluding PI cases)	120	737	756	779
CJR related cases (PI cases only)	80	519	743	859
Total	200	1,256	1,499	1,638

Table 15.2: Number of Cases Directed by the Court to Report the Progress of Mediation in the DC

DC	Post-CJR Periods			
	1.1.10-31.3.10	2 nd Year	3 rd Year	4 th Year
CJR related cases (excluding PI cases)	34	394	340	377
CJR related cases (PI cases only)	2	518	1,715	1,575
Total	36	912	2,055	1,952

71. In the DC, during the second, third and fourth years of the Post-CJR Periods covering a period of 12 months in each year, the number of mediation notices recorded a steady increase. The total number of cases directed by the court to report the progress of mediation was comparable to that in the third year. These trends indicate that there may be slightly greater room for cases in the DC to attempt mediation than those in the CFI.

72. We also note that mediation cases where the DoJ and LAD were involved have shown encouraging results so far as shown below.

(a) DoJ

Table 16.1 : Number of DoJ Cases that Attempted Mediation and Settled

	Post-CJR Periods			
	1.1.10-31.3.10	2 nd Year	3 rd Year	4 th Year
Number of cases that attempted mediation	Nil	14	15	23
Number of cases settled	Nil	3	6	6

73. There was a significant increase in the number of cases that attempted mediation in the fourth year of the Post-CJR Periods, as compared with the second and third years, though the number settled by mediation in the fourth year remained the same as that for the third year.

74. In terms of the nature of cases, for the three-year period above, most of them were PI and negligence claims, as well as damages claims.

(b) LAD

Table 16.2 : Number of Legally-aided Cases that Attempted Mediation and Settled

	Post-CJR Periods			
	1.1.10-31.3.10	2 nd Year	3 rd Year	4 th Year
Number of cases that attempted mediation	1	93	260	420
Number of cases settled	1	62 ²⁷	162 ²⁸	238 ²⁹

75. The respective number of cases that attempted mediation and settled by mediation increased significantly over the first four years of the Post-CJR Periods.

76. In terms of the nature of cases, most of them were employees' compensation, PI and matrimonial cases.

²⁷ This includes one case which was partially settled.

²⁸ This includes one case which was partially settled.

²⁹ This includes two cases which were partially settled.

77. As indicated in the above statistics, there is generally a steady increase in the number of mediation cases in the Post-CJR period which suggest a gradual change of litigation culture. With the court's increased emphasis on mediation, more and more litigating parties are aware that mediation would be one of the means of alternative dispute resolution. They are also making more efforts in attempting mediation, particularly for those types of cases which are more conducive for mediation.

78. While the profession has gradually accepted mediation as a realistic approach in settling disputes, it will probably take some more time for them and their clients to get used to the change of culture completely.

79. In this regard, we are reviewing the relevant Practice Direction with a view to streamlining the relevant procedures and reinforcing the importance of identifying a suitable stage to try mediation. We will also continue to encourage more use of mediation in certain types of cases.

80. We welcome the initiatives taken forward by the Administration and the profession to promote the use of mediation. The Mediation Ordinance, came into force in January 2013, seeks to provide a regulatory framework for mediation. The Ordinance sets out a clearer regime regarding important issues such as confidentiality and admissibility of mediation communications.

81. On the profession's side, the Hong Kong Mediation Accreditation Association Limited, which is a non-statutory industry-led body, has been established. It is a premier accreditation body for mediators in Hong Kong in discharging accreditation and disciplinary functions. Its establishment has helped boost the public's confidence in mediation and encourage them to attempt mediation.

82. The Judiciary's Mediation Information Office will continue to assist litigants in considering mediation as an alternative to litigation by providing them with relevant information on mediation, including the new initiatives above.

83. With collective efforts, it is hoped that the public confidence in mediation will be further enhanced.

(E) Costs Matters

84. To promote a sense of reasonable proportion and procedural economy in the conduct of proceedings is one of the underlying objectives of CJR. A crucial part of proper case management is the sensible handling of the issue

of costs. CJR mandates that the decision on costs must take the underlying objectives into account.

85. So far, relatively few problems have been encountered in the determination of costs by the courts. The full impact of the reforms here has, however, yet to be seen.

(a) Summary Assessment of Costs

86. Under CJR, the amended Order 62 provides for summary assessment of costs. The court is empowered, when disposing of an interlocutory application, to (a) make an assessment of costs payable in a summary and broad-brush way, rather than through a process of taxation whereby every item of costs in the receiving party’s bill of costs becomes potentially subject to close scrutiny; and (b) order that the payment be made promptly unless otherwise directed by the court. The first feature aims to dispense with the elaborate and lengthy taxation procedures, thereby saving time and costs. The second feature is aimed at discouraging unwarranted interlocutory applications.

Table 17.1: Number of Summary Assessments of Costs in the CFI

CFI	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Number of Summary Assessment of Costs	373	1,130 ³⁰	1,594 ³¹	1,809 ³²

87. In the CFI, the number of summary assessments during the Post-CJR Periods increased significantly over the first four years of the Post-CJR Periods. The year-on-year increase amounted to 203%, 41% and 13% in the second, third and fourth year respectively.

³⁰ With effect from September 2010, the systems have been enhanced to differentiate the summary assessment of costs by standard costs order made, i.e. without costs data details required and non-standard costs order made, i.e. with costs data details required. Amongst the 1,130 summary assessments of costs made in CFI, there were 512 non-standard costs orders made with costs data details required, which included 117 records with oral applications from receiving parties but without supplying the statements of costs during hearings. The remaining 618 were standard costs orders.

³¹ Amongst the 1,594 summary assessments of costs made in CFI, there were 484 non-standard costs orders made with costs data details required, which included 121 records with oral applications from receiving parties but without supplying the statements of costs during hearings. The remaining 1,110 were standard costs orders.

³² Amongst the 1,809 summary assessments of costs made in CFI, there were 468 non-standard costs orders made with costs data details required, which included 146 records with oral applications from receiving parties but without supplying the statements of costs during hearings. The remaining 1,341 were standard costs orders.

Table 17.2: Number of Summary Assessments of Costs in the DC

DC	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Number of Summary Assessment of Costs	1,103	2,222 ³³	3,119 ³⁴	2,476 ³⁵

88. In the DC, the number of summary assessment of costs also increased in the second and third years of the Post-CJR Periods. Though there was a slight year-on-year drop in the fourth year, it remained at a level higher than that in the second year. The slight decrease in the fourth year was possibly due to the corresponding drop in the numbers of interlocutory applications and CMCs listed for hearings (please refer to Tables 2.2 and 4.2 above).

89. It is a good sign to observe the growing number of summary assessments in general during the Post-CJR Periods. This new CJR initiative is invariably done for all interlocutory applications heard by Masters in both court levels.

(b) Taxation

90. The total number of provisional taxations by Chief Judicial Clerks, provisional taxations by Masters (without hearing) and formal taxations by Masters (with hearing) during the Post-CJR Periods are set out in the tables below.

³³ With effect from September 2010, the systems have been enhanced to differentiate the summary assessment of costs by standard costs order made, i.e. without costs data details required and non-standard costs order made, i.e. with costs data details required. Amongst the 2,222 summary assessments of costs made in DC, there were 869 non-standard costs orders made with costs data details required, which included 287 records with oral applications from receiving parties but without supplying the statements of costs during hearings. The remaining 1,353 were standard costs order.

³⁴ Amongst the 3,119 summary assessments of costs made in DC, there were 769 non-standard costs orders made with costs data details required, which included 561 records with oral applications from receiving parties but without supplying the statements of costs during hearings. The remaining 2,350 were standard costs order.

³⁵ Amongst the 2,476 summary assessments of costs made in DC, there were 426 non-standard costs orders made with costs data details required, which included 271 records with oral applications from receiving parties but without supplying the statements of costs during hearings. The remaining 2,050 were standard costs orders.

Table 18.1: Number of Taxations in the HC³⁶

HC	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Provisional taxation by Chief Judicial Clerks	202	104	124	82
Provisional Taxation by Masters (without hearing)	133	98	89	66
Formal Taxation by Masters (with hearing)	206 ³⁷	141 ³⁷	177 ³⁷	175 ³⁷
Total	541	343³⁸	390³⁸	323³⁸

Table 18.2: Number of Taxations in the DC³⁹

DC	Post-CJR Period			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Provisional taxation by Chief Judicial Clerks	134	99	91	99
Provisional Taxation by Masters (without hearing)	24	70	39	31
Formal Taxation by Masters (with hearing)	98 ³⁷	129 ³⁷	108 ³⁷	126 ³⁷
Total	256	298³⁸	238³⁸	256³⁸

(i) *Provisional Taxation by Chief Judicial Clerks*

91. Under CJR, a Chief Judicial Clerk is empowered to conduct a provisional taxation if the amount of the bill of costs does not exceed HK\$200,000. This initiative is intended to save time and costs through reducing the number of bills for taxation by Masters.

92. For the HC, the numbers of bills taxed and disposed of on paper without hearing by Chief Judicial Clerks and Masters in the fourth year of the

³⁶ Figures on number of taxations include bills (other than those criminal in nature) originated at other court levels and taxed in HC.

³⁷ There may be double counting in the statistics as parties might apply for taxation hearings after taxation without hearing. However, there should not be many of such cases.

³⁸ The taxation figures captured here include all taxation bills handled by the Chief Judicial Clerks and Masters, including those bills which require further actions after their handling (e.g. filing of allocatur).

³⁹ Figures on number of taxations include bills (other than those criminal in nature) originated at other court levels and taxed in DC.

Post-CJR Periods decreased year-on-year significantly by one-third and 26% respectively.

93. For the DC, the number of bills taxed and disposed of on paper without hearing by Masters continued the decreasing trend in the fourth year of the Post-CJR Period, while the numbers for paper disposal by Chief Judicial Clerks without hearing and disposal by Masters with hearings remained similar as those in the first three years.

94. The overall general downward trend in both the HC and the DC has indicated that the extensive application of summary assessment of costs is moving along the right direction (please refer to Tables 17.1 and 17.2).

(ii) Provisional Taxation by Masters

95. Provisional taxation by Masters is a new initiative under CJR. Under this new measure, a taxing Master can (a) conduct a provisional taxation on paper without a hearing and (b) make an order nisi as to the amount of costs to be awarded. The order nisi becomes absolute 14 days after it is made unless a party applies within the 14-day period for a hearing. Upon taxation, if the amount allowed does not materially exceed the amount allowed under the order nisi, the taxing Master may order the party who applied for the hearing to pay the costs of the hearing. Provisional taxation by Masters seeks to save time and costs through reducing the number of bills for formal taxation hearings.

96. During the Post-CJR Periods, for the HC, there were a total of 386 bills taxed and disposed of on paper without hearing by Masters. No significant pattern can be observed for the first four years in the Post-CJR Periods and more time is required before a concrete conclusion can be drawn.

97. In the DC, during the Post-CJR Periods, a total of 164 bills in the DC were taxed and disposed of on paper without hearing by Masters. Similar to the CFI, we cannot identify any pattern in the DC for the first four years in the Post-CJR Periods and we need more time to observe.

(iii) Average Disposal Time

98. The numbers of bills filed and average disposal time for taxed bills during the Pre-CJR Period and Post-CJR Periods are set out in the tables below.

Table 19.1: Number of bills filed and average disposal time for taxed bills in the HC⁴⁰

HC	Pre-CJR period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
Number of bills filed	1,152	712	702	577	541
Number of bills taxed ⁴¹	647	623	331	370 ⁴²	314
Average Disposal Time (Days)	115	133	137	143	173

Table 19.2: Number of bills filed and average disposal time for taxed bills in the DC⁴³

DC	Pre-CJR period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
Number of bills filed	957	545	409	395	408
Number of bills taxed ⁴¹	316	342	265	219 ⁴⁴	240 ⁴⁵
Average Disposal Time (Days)	83	128	129	137	156

99. When compared with the Pre-CJR Period and the first two years of the Post-CJR Periods, the average disposal time in both the HC and the DC was slightly longer in the third and fourth years. This seems reasonable as the simple and straightforward bills should have been disposed of by summary assessments. The remaining more complex bills should therefore normally take a longer time to be taxed.

⁴⁰ Figures on number of taxations include bills (other than those criminal in nature) originated at other court levels and taxed in HC.

⁴¹ Figures on number of bills taxed include bills taxed within the reporting period regardless of their bill filing dates.

⁴² Four bills which exceptionally required more than three years for completing the taxation process were excluded from the calculation. Their delay was due to reasons beyond control. Such exceptionally long cases were included in the calculation in the past paper for evaluation of the first three years of CJR implementation.

⁴³ Figures on number of taxations include bills (other than those criminal in nature) originated at other court levels and taxed in DC.

⁴⁴ Two bills which exceptionally required more than three years for completing the taxation process were excluded from the calculation. Their delay was due to reasons beyond control. Such exceptionally long cases were included in the calculation in the past paper for evaluation of the first three years of CJR implementation.

⁴⁵ One bill which exceptionally required more than three years for completing the taxation process was excluded from the calculation. Its delay was due to reasons beyond control.

(c) Costs Claimed and Costs Allowed

(i) *Under taxation*

100. The percentage of costs claimed which were allowed under taxation in the HC and the DC during the Post-CJR Period are set out in the tables below.

Table 20.1: Costs Claimed and Costs Allowed under Taxation in the HC⁴⁶

HC	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Percentage allowed (Total costs allowed / Total costs claimed)	Number of bills taxed	Number of bills taxed	Number of bills taxed	Number of bills taxed
≤ 20%	18 (3%)	4 (2%)	0 (0%)	0 (0%)
> 20% - 40%	27 (5%)	11 (4%)	8 (3%)	20 (9%)
> 40% - 60%	73 (14%)	38 (15%)	34 (12%)	26 (12%)
> 60% - 80%	146 (27%)	75 (29%)	75 (27%)	74 (35%)
> 80%	277 (51%)	129 (50%)	165 (59%)	94 (44%)
Total	541 (100%)	257 (100%)	282 (100%)	214 (100%)

101. In the HC, in the third and fourth years of the post-CJR Periods, no bills were taxed with less than 20% of the total costs claimed. For the first four years, for bills which were taxed with more than 60% of the total costs claimed, the annual percentage figures remained similar in the region of 78% to 86%.

⁴⁶ Figures on number of taxations include bills (other than those criminal in nature) originated at other court levels and taxed in HC.

Table 20.2: Costs Claimed and Costs Allowed under Taxation in the DC⁴⁷

DC	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Percentage allowed (Total costs allowed / Total costs claimed)	Number of bills taxed	Number of bills taxed	Number of bills taxed	Number of bills taxed
≤ 20%	7 (3%)	2 (1%)	1 (1%)	1 (1%)
> 20% - 40%	12 (5%)	7 (4%)	6 (4%)	8 (5%)
> 40% - 60%	60 (23%)	33 (18%)	27 (17%)	26 (16%)
> 60% - 80%	108 (42%)	85 (48%)	69 (43%)	70 (43%)
> 80%	69 (27%)	53 (29%)	57 (35%)	57 (35%)
Total	256 (100%)	180 (100%)	160 (100%)	162 (100%)

102. In the case of the DC, up to 35% of the bills taxed were allowed with more than 80% of the total costs claimed in the third and fourth years of the Post-CJR Periods. In general, this percentage was increasing steadily in the first four years which might reflect that the gap between the total costs allowed and total costs claimed was getting narrower. This can probably be attributed to the easier and possibly more certain preparation of costs claimed because of the simpler nature of DC cases.

(ii) Under summary assessment of costs

103. Statistics on the percentage of costs claimed over costs allowed under summary assessment of costs in the CFI and the DC during the Post-CJR Periods are set out in the tables below.

⁴⁷ Figures on number of taxations include bills (other than those criminal in nature) originated at other court levels and taxed in DC.

Table 21.1: Costs Claimed and Costs Allowed under Summary Assessment of Costs in the CFI

CFI	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Percentage allowed (Total costs allowed / Total costs claimed)	Number of summary assessment	Number of summary assessment	Number of summary assessment	Number of summary assessment
≤ 20%	13 (3%)	7 (2%)	10 (3%)	3 (0.9%)
> 20% - 40%	36 (10%)	26 (6%)	19 (5%)	21 (6.5%)
> 40% - 60%	66 (18%)	71 (18%)	64 (18%)	61 (18.9%)
> 60% - 80%	106 (28%)	98 (25%)	101 (28%)	103 (32.0%)
> 80%	152 (41%)	193 (49%)	169 (46%)	134 (41.6%)
Total	373⁴⁸ (100%)	395⁴⁸ (100%)	363⁴⁸ (100%)	322⁴⁸ (100%)

104. In the CFI, the percentage figures show that the pattern of distribution remained more or less the same during the Post-CJR Periods.

⁴⁸ A receiving party might orally apply for costs without supplying a statement of costs during a hearing. In that regard, there normally was no “Total Costs Claimed” for the application but only with “Total Costs Allowed” granted by the court. In the first year of the Post-CJR Periods, these applications could not be identified owing to system constraint and were subsumed under the category of >80%. From the second year of the Post-CJR Periods onwards, systems were enhanced to give effect to capture and identify these applications. In the second, third and fourth years of the Post-CJR Periods, there were 117, 121 and 146 records of this kind respectively which had not been included in the table.

Table 21.2: Costs Claimed and Costs Allowed under Summary Assessment of Costs in the DC

DC	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Percentage allowed (Total costs allowed / Total costs claimed)	Number of summary assessment	Number of summary assessment	Number of summary assessment	Number of summary assessment
≤ 20%	0 (N/A)	4 (1%)	1 (0.5%)	1 (1%)
> 20% - 40%	12 (1%)	14 (2%)	18 (8.7%)	15 (10%)
> 40% - 60%	15 (1%)	30 (5%)	35 (16.8%)	23 (15%)
> 60% - 80%	33 (3%)	46 (8%)	61 (29.3%)	63 (40%)
> 80%	1,043 ⁴⁹ (95%)	488 (84%)	93 (44.7%)	53 (34%)
Total	1,103⁵⁰ (100%)	582⁵⁰ (100%)	208⁵⁰ (100%)	155⁵⁰ (100%)

105. In the case of the DC, the figures in the first year of the Post-CJR Periods were not directly comparable with those in second to fourth years. This is because of the exclusion since the second year of the large number of cases involving litigants in person where only verbal claims were made during hearing with no statement of costs submitted. In the third and fourth years, the percentage of cases with the costs allowed amounting to over 60% of the costs claimed was similar at 74%, which seemed to suggest a stabilizing trend.

(F) Litigants in Person (“LIPs”)

106. The number of hearings involving LIPs has been on the rise in general. This presents a challenge to the courts. A multi-faceted approach is being adopted. The change of culture in the conduct of dispute resolution and the use of mediation will contribute to the solution. The provision of legal aid will also

⁴⁹ In the case of the DC, most of the assessments (about 95%) fell within this range of percentage allowed versus costs claimed. The high percentage in the DC was due to the vast number of cases (652) of summary assessments with cost amount claimed less than or equal to \$1,000. These cases mainly involve litigants in person for which the usual amount of \$200/\$100 is allowed. The exceptionally high percentage in the first year also included cases where there was no statement of costs and the verbal claims made during hearing were input to the computer system as equal to the amount allowed. The system were enhanced to exclude such cases in the second, third and fourth years for analysis.

⁵⁰ A receiving party might orally apply for costs without supplying a statement of costs during a hearing. In that regard, there normally was no “Total Costs Claimed” for the application but only with “Total Costs Allowed” granted by the court. In the first year of the Post-CJR Periods, these applications could not be identified owing to system constraint and were subsumed under the category of >80%. From the second year of the Post-CJR Periods onwards, systems were enhanced to capture and identify these applications. In the second, third and fourth years of the Post-CJR Periods, there were 287, 561 and 271 records of this kind respectively which had not been included in the table.

help. Separately, the Administration’s pilot scheme on LIPs should also be able to provide assistance for LIPs.

107. The number of hearings involving LIPs being heard at different stages (i.e. interlocutory applications, CMS, CMCs, PTRs and trials) are set out below.

Table 22.1: Number of Hearings Involving LIPs⁵¹ Being Heard at Different Stages in the CFI

CFI	Post-CJR Periods											
	1 st Year			2 nd Year			3 rd Year			4 th Year		
No. of Hearings	Involving LIPs	All represented	Total	Involving LIPs	All represented	Total	Involving LIPs	All represented	Total	Involving LIPs	All represented	Total
Interlocutory applications	942 (36.9%)	1,614 (63.1%)	2,556	916 (39.5%)	1,405 (60.5%)	2,321	954 (40.7%)	1,391 (59.3%)	2,345	1,064 (41.5%)	1,499 (58.5%)	2,563
CMS	60 (26.2%)	169 (73.8%)	229	69 (26.3%)	193 (73.7%)	262	60 (23.3%)	198 (76.7%)	258	85 (32.1%)	180 (67.9%)	265
CMC	125 (18.0%)	568 (82.0%)	693	161 (23.1%)	537 (76.9%)	698	102 (17.7%)	475 (82.3%)	577	125 (21.1%)	468 (78.9%)	593
PTR	62 (26.0%)	177 (74.0%)	239	58 (25.4%)	170 (74.6%)	228	42 (22.3%)	146 (77.7%)	188	43 (20.7%)	165 (79.3%)	208
Trial	82 (34.3%)	157 (65.7%)	239	76 (35.0%)	141 (65.0%)	217	46 (27.5%)	121 (72.5%)	167	41 (22.9%)	138 (77.1%)	179

108. In the CFI, similar to the first three years of the Post-CJR Periods, the percentage of hearings involving LIPs in interlocutory applications remained the highest among the various stages of litigation in the fourth year. On the other hand, the percentages of hearings involving LIPs at the stages of PTR and trial were on a general decreasing trend over the first four years of the Post-CJR Periods, indicating that LIPs continue to prefer engaging legal representatives during these late stages of litigation.

⁵¹ Figures on number of hearings include hearings under the respective stages of litigation (i.e. interlocutory applications, CMS, CMC, PTR or trial) with their heard dates within the reporting period. Any one of the parties not legally represented in the hearing will be counted as hearing involving unrepresented litigants (LIPs).

Table 22.2: Number of Hearings Involving LIPs⁵² Being Heard at Different Stages in the DC

DC	Post-CJR Period											
	1 st Year			2 nd Year			3 rd Year			4 th Year		
No. of Hearings	Involving LIPs	All represented	Total	Involving LIPs	All represented	Total	Involving LIPs	All represented	Total	Involving LIPs	All represented	Total
Interlocutory applications	428 (48.9%)	447 (51.1%)	875	443 (51.4%)	419 (48.6%)	862	354 (50.7%)	344 (49.3%)	698	355 (54.0%)	303 (46.0%)	658
CMS	432 (60.2%)	286 (39.8%)	718	330 (61.2%)	209 (38.8%)	539	292 (62.9%)	172 (37.1%)	464	289 (65.5%)	152 (34.5%)	441
CMC	327 (50.2%)	324 (49.8%)	651	364 (53.8%)	312 (46.2%)	676	304 (50.5%)	298 (49.5%)	602	243 (51.7%)	227 (48.3%)	470
PTR	81 (65.9%)	42 (34.1%)	123	67 (46.2%)	78 (53.8%)	145	69 (61.6%)	43 (38.4%)	112	85 (56.7%)	65 (43.3%)	150
Trial	159 (52.7%)	143 (47.3%)	302	148 (47.4%)	164 (52.6%)	312	124 (61.4%)	78 (38.6%)	202	135 (57.9%)	98 (42.1%)	233

109. In the DC, the difference in the percentages of hearings involving LIPs at different stages of litigation was less obvious than that in the CFI. In particular, the percentage of hearings involving LIPs in interlocutory applications was not particularly high when compared with other stages of litigation. As regards the percentages of hearings involving LIPs at the PTR and trial stages, there seemed to be more year-on-year fluctuations and there was not a clear trend. For example, there was a drop in the fourth year after an increase in the third year. More time is required for further observation before more concrete conclusions can be drawn.

110. With the implementation of CJR, the Judiciary continues to provide appropriate assistance for LIPs. The facilities and services in the Resource Centre for Unrepresented Litigants serve to assist them in dealing with the court rules and procedures in the conduct of their cases under CJR.

Table 23.1: Number of enquiries at Resource Centre

	Pre-CJR Period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
Number of enquiries at Resource Centre	13,893	15,189	14,339	13,888	15,483

⁵² Figures on number of hearings include hearings under the respective stages of litigation (i.e. interlocutory applications, CMS, CMC, PTR or trial) with their heard dates within the reporting period. Any one of the parties not legally represented in the hearing will be counted as hearing involving LIPs.

111. The number of enquiries at the Resource Centre increased by 11% in the fourth year of the Post-CJR Periods, after a general mild declining trend in the first three years. This is probably because there were more cases in the fourth year in the CFI and people were getting more and more familiar with the services provided by the Resource Centre.

(G) *How Some “Individual Changes” Work Out In Practice*

(a) Orders against Vexatious Litigants under Section 27 of the High Court Ordinance (Cap. 4)

112. Section 27 of the High Court Ordinance provides that the CFI may, on the application of the Secretary for Justice or an affected person, order that no legal proceedings shall be instituted or no legal proceedings instituted shall be continued by a vexatious litigant without the CFI’s leave.

Table 24.1: Number of Orders under Section 27 of the High Court Ordinance (Against Vexatious Litigants)

CFI	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
By Secretary for Justice	0	0	0	0
By affected party	0	1	0	0

113. During the Post-CJR Periods, except for one order made in the second year, no order was made under section 27 of the High Court Ordinance.

(b) Wasted Costs Orders under Order 62

114. Under Order 62, the court may make a wasted costs order against a legal representative. A wasted costs order may disallow the costs as between the legal representative and his client; and direct the legal representative to repay to his client costs which the client has been ordered to pay to other parties to the proceedings or indemnify other parties against costs incurred by him.

Table 25.1: Number of Wasted Costs Order Made in the CFI

CFI	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Barrister	0	0	0	0
Solicitor	3	9	3	7

115. In the CFI, during the Post-CJR Periods, there was no wasted costs order made against barristers and the numbers of wasted costs orders made against solicitors⁵³ were low.

Table 25.2: Number of Wasted Costs Order Made in the DC

DC	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
Barrister	0	0	0	1
Solicitor	1	2	1	5

116. In the DC, during the Post-CJR Periods, there was one wasted costs order made against a barrister in the fourth year and the numbers of wasted costs orders made against solicitors⁵³ were lower than those of the CFI.

(c) Expert Evidence

117. Under CJR, among other things, the court is empowered to order the parties to appoint a single joint expert (“SJE”). When a SJE is appointed in an appropriate case, partisan conflicting views are avoided and only one set of fees and expenses incurred.

Table 26.1: Number of Cases in which SJE was Appointed in the CFI

CFI	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
	9	5	14	10

118. In the CFI, the numbers of cases with SJE appointment during the Post-CJR Periods were at a relatively low level.

⁵³ Some practitioners were spared wasted costs orders because they had undertaken not to charge or to pay part of the costs that their clients should be paying.

Table 26.2: Number of Cases in which SJE was Appointed in the DC

DC	Post-CJR Periods			
	1 st Year	2 nd Year	3 rd Year	4 th Year
	2	80	91	42

119. In the DC, after a significant increase in the numbers of SJE's in the second and third years of the Post-CJR Periods, there was a drop in the fourth year mainly attributable to PI actions. Some parties indicated their preference of using their own expert particularly if the expert was nominated by the other side. For PI cases involving smaller sums, parties might agree not to have any expert evidence at all in order to save costs. We need to observe for a longer period to see if the use of SJE's indeed becomes more commonly accepted in the DC.

120. The statistics only captured the appointment of SJE. In some cases, while there was no SJE, there were joint experts or joint reports submitted by experts. In the CFI, although not many cases in the Post-CJR Periods involved the appointment of SJE, the use of joint expert reports was common.

(d) Appeals

(i) Number of Appeals against Masters' Decisions on Interlocutory Applications

121. An appeal against a Master's decision on interlocutory matters is as of right. The numbers of appeals against such decision during the Post-CJR Periods are set out below:

Table 27.1: Number of Appeals against Masters' Decisions on Interlocutory Applications in the CFI

CFI	Pre-CJR Period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
	157	170	113	105	118

122. In the CFI, after a slight increase in the first year of the Post-CJR Periods, the number of appeals remained relatively stable in the second to fourth years.

Table 27.2: Number of Appeals against Masters’ Decisions on Interlocutory Applications in the DC

DC	Pre-CJR Period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
	53	81	68	54	58

123. Similarly, in the DC, besides a small increase in the first year in the post-CJR Periods, the number of Masters’ appeals for the second to fourth years maintained at a similar level.

(ii) Number of Applications for Leave to Appeal

124. The numbers of application for leave to appeal handled by the Court of Appeal during the Post-CJR Periods, with breakdown by different court levels, are set out in the table below.

Table 28.1: Number of Applications for Leave to Appeal handled by the Court of Appeal

	Pre-CJR Period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
From CFI	22	52	49	65	55
From DC	35	46	34	59	39
From other courts	16	28	32	36	27
Total	73	126	115	160	121

125. The numbers of applications for leave to appeal slightly fluctuated from year to year during the first four years of the Post-CJR Periods. There was a year-on-year decrease in the second year, an increase in the third year and then another decrease in the fourth year.

Table 28.2: Number of Interlocutory Appeals to the Court of Appeal

	Pre-CJR Period	Post-CJR Periods			
		1 st Year	2 nd Year	3 rd Year	4 th Year
From CFI	179	78	61	62	28
From DC	10	14	8	8	1
From other courts	7	9	4	8	2
Total	196	101	73	78	31

126. The numbers of interlocutory appeals filed during the Post-CJR Periods dropped significantly when compared with that of the Pre-CJR Period.

This shows that more stringent requirement of leave seems to have successfully reduced the number of unmeritorious interlocutory appeals to the Court of Appeal and CJR is moving towards the right direction. That said, more efforts are now needed to handle such leave applications.

127. The number of interlocutory appeals in the fourth year decreased drastically year-on-year by 60%. One of the possible reasons is the directions given by the Chief Judge of the High Court in February 2012 after a judgment indicating that appeals filed pursuant to Order 59 rule 21 of the Rules of the High Court (Cap. 4A) would be treated as final appeals⁵⁴. As such, those appeals were excluded from the category of interlocutory appeals above and be re-classified as final appeals.

VI. Conclusion

128. The implementation of CJR for the fourth year continued to be smooth and satisfactory on the whole. Among the statistics highlighted above, there are a few areas where the success and effectiveness of CJR have been more clearly seen. These include greater use of mediation, more sanctioned payments (under Order 22 and on costs under Order 62A) and more summary assessment of costs.

129. Taking an overall strategic look at the statistics for the last four years, it appears that CJR works particularly well for cases which could be more easily settled by nature, e.g. DC cases which are simpler and PI cases where the damages could be assessed with more well-established principles. The impact of CJR on the more complicated cases such as those in the HC may be less obvious.

130. With the court's encouragement, there is a general trend that more and more people are considering mediation as an alternative way of dispute resolution. Further, parties to the legal proceedings and their legal representatives now recognize more the court's case management powers. They are therefore more cost-sensitive and sensible in making applications to the court, and adjournment of trials has been less frequent. There are also less interlocutory appeals. With mechanisms in place such as sanctioned payments, more parties (particularly defendants) are more willing to seriously consider settlement early. Cases are generally settled at an earlier stage. All these latest

⁵⁴ *Champion Concord Ltd and Another v Lau Koon Foo and Another; Lau Koon Foo v Champion Concord Ltd and Another* [2011] 14 HKCFAR 837.

developments help save the litigation costs of parties as well as judicial resources, which is one of the underlying objectives of CJR.

131. That said, we remain mindful that the CJR key indicators are inevitably susceptible to factors not related to CJR, such as the deployment of judicial manpower in specific periods, fluctuation in caseload, different nature of the cases in the CFI and DC, as well as the challenges posed by the increasing number of LIPs. It would be difficult, if not impossible, to single out the effect of CJR implementation alone. The statistics presented in this paper, as before, should therefore be read with caution and interpreted in their proper context. While we now have a longer period of observation after implementation of the CJR, it remains inappropriate to attribute any yearly changes solely to CJR. A much longer time will probably be required to assess the full impact, benefit and effectiveness of CJR.

Judiciary Administration
December 2013

Supplementary information regarding PI cases

[As at 27 Nov 2013]

**Number of PI cases disposed of and average number of Checklist Review Hearing (CLR)/
Case Management Conference (CMC)/ Pre-trial Review (PTR) with breakdown by trial & without trial¹****Commencement date: Any date in Pre or Post-CJR Periods****Disposal date: Any date in either 1st, 2nd, 3rd or 4th Year of Post-CJR Periods**

CFI	Post-CJR Periods											
	1 st Year			2 nd Year			3 rd Year			4 th Year		
	With trial	Without trial	Total	With trial	Without trial	Total	With trial	Without trial	Total	With trial	Without trial	Total
No. of PI cases disposed of	59	871	930	49	698	747	43	619	662	21	746	767
(Average no. of CLR/CMC/PTR)	(4.88)	(3.20)	(3.30)	(5.59)	(3.33)	(3.48)	(5.63)	(3.12)	(3.28)	(4.62)	(2.92)	(2.96)

DC	Post-CJR Periods											
	1 st Year			2 nd Year			3 rd Year			4 th Year		
	With trial	Without trial	Total	With trial	Without trial	Total	With trial	Without trial	Total	With trial	Without trial	Total
No. of PI cases disposed of	67	2,049	2,116	66	2,025	2,091	36	2,235	2,271	36	2,377	2,413
(Average no. of CLR/CMC/PTR)	(2.01)	(1.47)	(1.49)	(3.42)	(1.48)	(1.55)	(3.11)	(1.31)	(1.33)	(3.42)	(1.28)	(1.31)

Columns for like-to-like comparison are shaded in same colour.

Observations:

- (a) For PI cases in both the CFI and the DC, the overall average numbers of CLR/CMC/PTR per case disposed of were on a gradual downward trend, save and except a slight increase in the second year of the Post-CJR Periods. In the CFI, the overall average numbers of CLR/CMC/PTR per case disposed of dropped from 3.48 in the second year of the Post-CJR Periods to 3.28 in the third year and further to 2.96 in the fourth year. Similarly, in the DC, it dropped from an average of 1.55 in the second year of the Post-CJR Periods to 1.33 in the third year and further to 1.31 in the fourth year.
- (b) The average numbers of CLR/CMC/PTR per case disposed of for cases with trial were higher than the corresponding figures for cases without trial.
- (c) In both the CFI and the DC, the percentages of PI cases disposed of without trial as against the total PI cases disposed of were on a rising trend during the Post-CJR Periods. In the CFI, the percentages remained steady at 93%-94% during the first three years of the Post-CJR Periods and increased to 97% in the fourth year. In the DC, the percentages remained high at 97% during the first two years and reached 98% and 99% respectively in the third and fourth years.

¹ PI cases with trials vacated before hearing are classified under "Without Trial" category.

Feedback Collected through Questionnaires on Sanctioned Offers in the CFI

Total number of cases disposed of (on party level)				Number of questionnaires distributed ¹				Number of questionnaires received			
1.7.09- 31.3.10	1.4.10- 31.3.11	1.4.11- 31.3.12	1.4.12- 31.3.13	1.7.09- 31.3.10	1.4.10- 31.3.11	1.4.11- 31.3.12	1.4.12- 31.3.13	1.7.09- 31.3.10	1.4.10- 31.3.11	1.4.11- 31.3.12	1.4.12- 31.3.13
3,152	4,107	4,206	4,465	869	1,085	1,075	1,220	279	455	382	504

Sanctioned offer made under Order 22 ²											
Number of sanctioned offer made				Inclusive of non-money offer				Number of sanctioned offer accepted and case settled			
1.7.09- 31.3.10	1.4.10- 31.3.11	1.4.11- 31.3.12	1.4.12- 31.3.13	1.7.09- 31.3.10	1.4.10- 31.3.11	1.4.11- 31.3.12	1.4.12- 31.3.13	1.7.09- 31.3.10	1.4.10- 31.3.11	1.4.11- 31.3.12	1.4.12- 31.3.13
172	151	68	94	23	15	4	5	64	43	13	14

Sanctioned offer made under Order 62A ²							
Number of sanctioned offer made				Number of sanctioned offer accepted and case settled			
1.7.09- 31.3.10	1.4.10- 31.3.11	1.4.11- 31.3.12	1.4.12- 31.3.13	1.7.09- 31.3.10	1.4.10- 31.3.11	1.4.11- 31.3.12	1.4.12- 31.3.13
27	32	20	20	15	10	6	6

¹ A questionnaire for Order 22 and Order 62A should only be distributed to the parties (1) when the court notified the parties of an order in terms of a consent summons which had a disposal effect, whether it was on party level or case level; or (2) when the filing counter received a consent order which had a disposal effect, whether it was on party level or case level; or (3) upon parties having reached settlement, whether at the trial or shortly before.

² The questionnaires were returned on a voluntary basis and the rate of return only constituted a small percentage of the total number of cases disposed of. Therefore, the figures in the table do not reflect the full picture of sanctioned offers between the parties.

Feedback Collected through Questionnaires on Sanctioned Offers in the DC

Total number of cases disposed of (on party level)				Number of questionnaires distributed ¹				Number of questionnaires received			
1.7.09- 31.3.10	1.4.10- 31.3.11	1.4.11- 31.3.12	1.4.12- 31.3.13	1.7.09- 31.3.10	1.4.10- 31.3.11	1.4.11- 31.3.12	1.4.12- 31.3.13	1.7.09- 31.3.10	1.4.10- 31.3.11	1.4.11- 31.3.12	1.4.12- 31.3.13
11,979	14,415	13,992	13,738	1,134	1,453	2,230	2,321	818	1,298	944	969

Sanctioned offer made under Order 22 ²											
Number of sanctioned offer made				Inclusive of non-money offer				Number of sanctioned offer accepted and case settled			
1.7.09- 31.3.10	1.4.10- 31.3.11	1.4.11- 31.3.12	1.4.12- 31.3.13	1.7.09- 31.3.10	1.4.10- 31.3.11	1.4.11- 31.3.12	1.4.12- 31.3.13	1.7.09- 31.3.10	1.4.10- 31.3.11	1.4.11- 31.3.12	1.4.12- 31.3.13
505	431	243	213	34	18	11	4	239	184	109	73

Sanctioned offer made under Order 62A ²							
Number of sanctioned offer made				Number of sanctioned offer accepted and case settled			
1.7.09- 31.3.10	1.4.10- 31.3.11	1.4.11- 31.3.12	1.4.12- 31.3.13	1.7.09- 31.3.10	1.4.10- 31.3.11	1.4.11- 31.3.12	1.4.12- 31.3.13
57	60	55	42	15	17	7	11

¹ A questionnaire for Order 22 and Order 62A should only be distributed to the parties (1) when the court notified the parties of an order in terms of a consent summons which had a disposal effect, whether it was on party level or case level; or (2) when the filing counter received a consent order which had a disposal effect, whether it was on party level or case level; or (3) upon parties having reached settlement, whether at the trial or shortly before.

² The questionnaires were returned on a voluntary basis and the rate of return only constituted a small percentage of the total number of cases disposed of. Therefore, the figures in the table do not reflect the full picture of sanctioned offers between the parties.