THE LAW SOCIETY OF HONG KONG 香港律師會

CONSULTATION ON PROPOSED E-PRACTICE DIRECTION FOR THE MANDATORY USE OF THE INTEGRATED COURT CASE MANAGEMENT SYSTEM BY LEGALLY REPRESENTED PARTIES AND INSTITUTIONAL PARTIES IN HIGH COURT AND DISTRICT COURT CIVIL PROCEEDINGS

LAW SOCIETY SUBMISSION

1. **Introduction.** In September 2026, the Judiciary invited views on the proposed e-Practice Direction for the mandatory use of the Integrated Court Case Management System ("iCMS") by legally represented parties and institutional parties in case types for which electronic filing is available, initially in civil proceedings in the High Court and the District Court ("Consultation Paper")[1]. In response, the Law Society makes the following submissions.

2. **Permission to use the conventional mode.** Under paragraphs 14 and 15, an applicable user may apply to a Practice Master of the High Court or District Court for permission to commence an e-proceeding or file a document in an e-proceeding in the conventional mode. The applicable user should approach the Masters' Clerks Office of the Court Registry to make an appointment to attend before a Practice Master, and the hearing must be attended by a solicitor "who is familiar with the general operation and management of the firm and the proceeding involved". Permission may be granted if the Practice Master is satisfied that good cause has been shown and that it is in the interests of justice to do so. The Law Society considers that the e-Practice Direction may usefully provide further guidance as to what circumstances would amount to an "exceptional case" for the purposes of paragraph 14. The Law Society further suggests

[1] Legislative Council Panel on Administration of Justice and Legal Services
LC Paper No. CB(3)1092/2026(01): Information paper on "Consultation on the proposed e-Practice Direction for the mandatory use of the integrated Court Case Management System by legally represented parties and institutional parties in High Court and District Court civil proceedings" provided by the Judiciary Administration

that a more flexible approach be considered, particularly during the initial stage of implementation. For instance, in cases of urgency arising from a technical problem, it may be sufficient for a solicitor of the relevant firm to sign a certificate of urgency, together with a certificate confirming the technical breakdown (or a single certificate combining the two), which may then be presented by the firm's representative to the Court Registry for the purpose of conventional filing, without the need for a formal application and attendance before a Practice Master. Any such arrangement could be made subject to such safeguards, or subsequent directions of the Court, as may be appropriate. The Law Society considers that such an arrangement would strike an appropriate balance between safeguarding the integrity of the e-filing regime and ensuring that practitioners are not unduly burdened where conventional filing is genuinely necessary.

3. **Scheduled outages and filing deadlines.** Paragraph 20 of the draft e-Practice Direction provides that a scheduled suspension of the iCMS will not suspend or extend any applicable time limit, and that users will be expected to arrange for documents to be filed within time notwithstanding the scheduled outage. The Law Society agrees that a scheduled suspension of the iCMS should not suspend or extend the applicable time limit for taking any step in the proceedings, as an automatic extension of a time limit may have consequences extending beyond the filing process itself and may affect the rights and obligations of the parties. The Law Society appreciates that the underlying rationale may be that advance notice of a scheduled outage will be given, so that users may plan ahead and file their documents before the outage commences. However, such an approach may, in effect, shorten the time otherwise available to users to file their documents, particularly where a filing deadline falls during or shortly after the scheduled outage. The Law Society is therefore of the view that the Judiciary should consider adopting a more lenient and flexible approach when dealing with any application for an extension of time, leave to file out of time or other appropriate relief where compliance with a time limit has been materially affected by a scheduled outage despite reasonable efforts on the part of the user.

4. **Outage Notices.** Under paragraph 21, the requirement to use the iCMS is temporarily suspended only upon the issue of an Outage Notice by the Judiciary. Conventional filing may then be used during the period of suspension. The Law Society accepts that

conventional filing should ordinarily be available where the iCMS itself is unavailable, rather than where an individual user is unable to access or use the system because of a problem with the user's own computer, internet connection or other local circumstances. Permitting conventional filing as of right on the basis of evidence submitted by individual users could result in a substantial number of requests for conventional filing and place an undue administrative burden on the Court. Accordingly, the Law Society considers that an Outage Notice should ordinarily be required as objective confirmation that the iCMS is unavailable. The Judiciary may nevertheless wish to ensure that outages are identified promptly and that Outage Notices are issued without delay, so that users are not prejudiced where the system is in fact unavailable. In particular, consideration might be given to ensuring that there is an effective mechanism for users promptly to report a suspected outage, so that the status of the system can be ascertained and, where appropriate, an Outage Notice issued without undue delay.

5. **Technical problems without an Outage Notice.** Paragraph 22 provides that, where no Outage Notice has been issued, a user who encounters a technical problem preventing the use of the iCMS may apply for permission to file in the conventional mode where there is an urgent need. The Law Society considers that paragraph 22 provides a reasonable mechanism for addressing genuine and urgent technical difficulties, and has no objection to the proposed arrangement. The Law Society nevertheless considers that the more flexible procedure suggested in paragraph 2 above, particularly during the initial stage of implementation, would assist in ensuring that the mechanism operates effectively in cases where the need for conventional filing is genuinely urgent.

6. **Missed deadlines due to technical problems.** Paragraph 23 provides that an applicable user who fails to comply with a time limit because of a technical problem may apply for an extension of time, leave to file out of time or relief from sanction, and that such an application should be supported by an affidavit setting out details of the technical problem, the unsuccessful filing attempts and any error messages or screenshots. The Law Society notes that, in such circumstances, the user would in any event be required to proceed in accordance with the existing rules of court and to make the relevant application to the Court. Paragraph 23 therefore does not appear to provide any substantive protection or relief beyond that otherwise available under the existing

rules. The Law Society would therefore respectfully invite the Judiciary to consider whether the e-Practice Direction should make clear that such applications should ordinarily be dealt with in a sympathetic and expeditious manner where the technical problem is genuine and properly evidenced, particularly during the initial stage of implementation and where the user has acted reasonably and without undue delay.

The Law Society of Hong Kong
3 November 2026