

# Accord reached on writ<sup>3.4</sup> service

By LINDY COURSE

HONGKONG and Guangdong have reached agreement on the serving of writs for each other and it is seen as an important development in improving business relations.

The agreement is the culmination of four years of discussions and will help solve commercial disputes between the two areas.

It means that Hongkong residents facing civil action in Guangdong and witnesses can be served with the relevant papers in Hongkong and vice versa.

Guangdong authorities, who initiated the talks, are understood to have been particularly keen to bring the arrangement into effect as it will undoubtedly benefit them.

Commercial and contract cases filed in the Guangdong courts have increased from a handful each year to several hundred.

In the past Guangdong courts have had problems to contact defendants and witnesses in Hongkong because they send writs by post but do not know whether they receive them and the case cannot proceed.

Once the agreement comes into force, however, they will know the writ has been served either by registered post or by the Hongkong court bailiffs and if the defendant chooses not to attend, judgement can be entered in his absence.

If that person goes into China again, he could be picked up and asked to settle the judgement.

Guangdong estimated that there may be 200 writs a year at first but because of the increasing trade, this could substantially increase, particularly if arrangements are later also made with Beijing, Shanghai and the 14 special

economic regions, as is hoped.

Neither authority will be able to take any steps to enforce the documents, but the person concerned would know the position he was in and could act accordingly.

The arrangement had a controversial start when former Chief Justice, Sir Denys Roberts, suddenly signed a provisional agreement with the Chinese authorities while on a trip to China in 1985.

Afterwards he was said to have embarrassed the Government and the Foreign Office because it was doubtful if he had the authority to sign a cross-border agreement, which is normally subject to strict protocol.

Sir Denys said then it was hoped to start the arrangement in March 1986, but since then many technical problems have arisen.

Sources said the agreement was finally reached at a meeting last week attended by the Registrar of the Supreme Court, Mr Julian Betts, Mr Frank Stock, the Solicitor-General and Miss Anne Shepherd from the Political Adviser's Office for Hongkong and representatives from Guangdong.

There have been several meetings between both authorities and the agreement apparently proved difficult to conclude partly because of the vast differences in the two legal systems.

It is understood that both sides were anxious to make sure the arrangement was watertight.

The concept is not new in that Hongkong has similar arrangements with other countries, but it is new to have such an arrangement with China.

Because of the developing economic relationship between the two areas it is expected that this agreement will be used more than most