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**Paper for the House Committee Meeting
of the Legislative Council on 11 January 2002**

**Legal Service Division Report on
Interest on Arrears of Maintenance Bill 2001**

Objects of the Bill

- (a) To empower the court to make an attachment of income order in respect of a lump sum maintenance order regardless of whether the lump sum is to be paid in one amount or by instalments.
- (b) To empower the court to require a maintenance payer to pay interest in respect of arrears of maintenance, and specify the circumstances which the court shall take into account when determining whether to do so.

LegCo Brief Reference

- 2. HAB/CR/1/19/96 Pt.2 dated 20 December 2001 issued by the Home Affairs Bureau.

Date of First Reading

- 3. 9 January 2002.

Comments

- 4. This Bill is part of the package of legislative proposals to implement the recommendations of the "Inter-departmental Working Group on Review of law and administrative measures affecting divorcees and children who are eligible for alimony". The Working Group was formed by the Administration as a result of difficulties in collecting and enforcing maintenance payments encountered by maintenance payees. In May 2000, the Working Group published a report that made a series of recommendations. Members may recall that some of the recommendations have been considered by Members in the context of the Attachment of Income Orders (Amendment) Bill 2001 (passed on 4 July 2001) and the Attachment of Income Order (Amendment) Rules 2001 (gazetted on 14 December 2001). A Bills Committee and a subcommittee of the House Committee have respectively been formed to consider the

two items. The Bills Committee reported to the House Committee on 22 June 2001 (LegCo Paper CB(2)1872/00-01), while an oral report of the subcommittee was made to the House Committee on 4 January 2002. Annex B of the LegCo Brief is a progress report of the implementation of the recommendations of the Working Group.

5. The proposals in this Bill aimed at implementing the recommendation of the Working Group as stated in paragraph 4.33 of its report. The original recommendation is to impose a surcharge on late maintenance payment. However, as a result of the concern of the Bar Association (details in paragraphs 4 and 5 of the LegCo Brief), the Administration now proposes to empower the court to impose interest rather than a surcharge. Under the Bill, the requirement to pay interest must be made pursuant to an application made by the maintenance payee in a proceeding instituted for enforcing the maintenance order, and the interest will be paid at the rate the same as other judgement debts. The Bill also specifies that the maintenance payer will only be liable to pay interest in respect of arrears which accrue on or after the date on which the Ordinance (if the Bill is passed) comes into operation.

Consultation with Panel

6. The proposals in the Bill have not yet been discussed in the LegCo Panel on Home Affairs.

Public Consultation

7. According to the LegCo Brief, the Bar Association and Law Society have been consulted and their suggestions have been incorporated in the Bill

Conclusion

8. The Bill is part of the package of legislative proposals intended to assist maintenance payees to enforce payment of maintenance. The issue is a matter of concern for certain sectors of the community and previous proposals in the same package have received detailed consideration by Members. Perhaps, Members may also wish to set up a Bills Committee to consider the present proposals.

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