

**ATTACHMENT OF INCOME ORDER (APPLICATION
TO GOVERNMENT AND MISCELLANEOUS
AMENDMENTS) ORDINANCE 2007**

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HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 20 OF 2007



Henry TANG
Acting Chief Executive
22 November 2007

An Ordinance to amend the Guardianship of Minors Ordinance, the Separation and Maintenance Orders Ordinance and the Matrimonial Proceedings and Property Ordinance to—

- (a) provide for the application of attachment of income orders to the Government as an income source;
- (b) provide that paragraph (a) of the proviso to section 23(1) of the Crown Proceedings Ordinance (Cap. 300) does not preclude the court from making an attachment of income order in respect of the wages or salary payable by the Government;
- (c) validate any attachment of income order made in respect of the wages or salary payable by the Government before the commencement of this Ordinance;
- (d) make clerical amendments to certain provisions; and
- (e) provide for matters necessary for the purposes in paragraphs (a), (b) and (c) and for consequential amendments.

[23 November 2007]

Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title

This Ordinance may be cited as the Attachment of Income Order (Application to Government and Miscellaneous Amendments) Ordinance 2007.

PART 2

AMENDMENTS TO GUARDIANSHIP OF MINORS ORDINANCE

2. Interpretation

Section 2 of the Guardianship of Minors Ordinance (Cap. 13) is amended, in the Chinese text, in the definition of “贍養”, by repealing “內。” and substituting “內；”。

3. Attachment of income to satisfy order

- (1) Section 20(1AA) is amended by adding—
““Amendment Ordinance” (《修訂條例》) means the Attachment of Income Order (Application to Government and Miscellaneous Amendments) Ordinance 2007 (20 of 2007);
“income source” (入息來源) means a person by whom the income of the maintenance payer is payable and includes the Government;”.
- (2) Section 20(3) is repealed and the following substituted—
“(3) An attachment order is an authority to an income source to make the payment in accordance with the order, and the receipt of the specified payee is a good discharge to that income source.”.
- (3) Section 20 is amended by adding immediately before subsection (4)—
“(3A) Without limiting the generality of subsection (1), that subsection applies to income that is wages or salary payable to a maintenance payer by the Government, and accordingly paragraph (a) of the proviso to section 23(1) of the Crown Proceedings Ordinance (Cap. 300) is not to be construed as precluding the court from making an attachment order in respect of such wages or salary.”.
- (4) Section 20(4) is repealed and the following substituted—
“(4) Without limiting the generality of subsection (1), that subsection applies to income that is wages payable to a maintenance payer by a person other than the Government, and accordingly section 66 of the Employment Ordinance (Cap. 57) is not to be construed as precluding the court from making an attachment order in respect of such wages.”.
- (5) Section 20(6)(c) is repealed and the following substituted—
“(c) the obligations on the part of the income source;”.
- (6) Section 20 is amended by adding—
“(9) Any attachment order—

(a) made by the court before the commencement date of the Amendment Ordinance in respect of the wages or salary payable to a maintenance payer by the Government; and

(b) which has not been discharged or declared invalid by the court as at that commencement date,

has effect from that commencement date as if it were made under subsection (1) as read with subsection (3A).

(10) An application—

(a) for an attachment order in respect of the wages or salary payable to a maintenance payer by the Government;

(b) that is pending immediately before the commencement date of the Amendment Ordinance; and

(c) in which an attachment order has not been made as at that commencement date,

is to be determined in accordance with this section as amended by the Amendment Ordinance.”.

PART 3

AMENDMENTS TO SEPARATION AND MAINTENANCE ORDERS ORDINANCE

4. Interpretation

Section 2 of the Separation and Maintenance Orders Ordinance (Cap. 16) is amended, in the Chinese text, in the definition of “慣性酗酒者”, by repealing “人。” and substituting “人 ; ”.

5. Attachment of income to satisfy order

(1) Section 9A(1AA) is amended by adding—

““Amendment Ordinance” (《修訂條例》) means the Attachment of Income Order (Application to Government and Miscellaneous Amendments) Ordinance 2007 (20 of 2007);

“income source” (入息來源) means a person by whom the income of the maintenance payer is payable and includes the Government;”.

(2) Section 9A(3) is repealed and the following substituted—

“(3) An attachment order is an authority to an income source to make the payment in accordance with the order, and the receipt of the specified payee is a good discharge to that income source.”.

(3) Section 9A is amended by adding immediately before subsection (4)—

“(3A) Without limiting the generality of subsection (1), that subsection applies to income that is wages or salary payable to a maintenance payer by the Government, and accordingly paragraph (a) of the proviso to section 23(1) of the Crown Proceedings Ordinance (Cap. 300) is not to be construed as precluding the court from making an attachment order in respect of such wages or salary.”.

(4) Section 9A(4) is repealed and the following substituted—

“(4) Without limiting the generality of subsection (1), that subsection applies to income that is wages payable to a maintenance payer by a person other than the Government, and accordingly section 66 of the Employment Ordinance (Cap. 57) is not to be construed as precluding the court from making an attachment order in respect of such wages.”.

(5) Section 9A(6)(c) is repealed and the following substituted—

“(c) the obligations on the part of the income source;”.

(6) Section 9A is amended by adding—

“(9) Any attachment order—

(a) made by the court before the commencement date of the Amendment Ordinance in respect of the wages or salary payable to a maintenance payer by the Government; and

(b) which has not been discharged or declared invalid by the court as at that commencement date,

has effect from that commencement date as if it were made under subsection (1) as read with subsection (3A).

(10) An application—

(a) for an attachment order in respect of the wages or salary payable to a maintenance payer by the Government;

(b) that is pending immediately before the commencement date of the Amendment Ordinance; and

(c) in which an attachment order has not been made as at that commencement date,

is to be determined in accordance with this section as amended by the Amendment Ordinance.”.

PART 4

AMENDMENTS TO MATRIMONIAL PROCEEDINGS AND
PROPERTY ORDINANCE

6. Interpretation

Section 2(1) of the Matrimonial Proceedings and Property Ordinance (Cap. 192) is amended, in the Chinese text, in the definition of “管養、管養權”, by repealing “視。” and substituting “視；”.

7. Attachment of income to satisfy order

- (1) Section 28(1AA) is amended by adding—
““Amendment Ordinance” (《修訂條例》) means the Attachment of Income Order (Application to Government and Miscellaneous Amendments) Ordinance 2007 (20 of 2007);
“income source” (入息來源) means a person by whom the income of the maintenance payer is payable and includes the Government;”.
- (2) Section 28(3) is repealed and the following substituted—
“(3) An attachment order is an authority to an income source to make the payment in accordance with the order, and the receipt of the specified payee is a good discharge to that income source.”.
- (3) Section 28 is amended by adding immediately before subsection (4)—
“(3A) Without limiting the generality of subsection (1), that subsection applies to income that is wages or salary payable to a maintenance payer by the Government, and accordingly paragraph (a) of the proviso to section 23(1) of the Crown Proceedings Ordinance (Cap. 300) is not to be construed as precluding the court from making an attachment order in respect of such wages or salary.”.
- (4) Section 28(4) is repealed and the following substituted—
“(4) Without limiting the generality of subsection (1), that subsection applies to income that is wages payable to a maintenance payer by a person other than the Government, and accordingly section 66 of the Employment Ordinance (Cap. 57) is not to be construed as precluding the court from making an attachment order in respect of such wages.”.
- (5) Section 28(6)(c) is repealed and the following substituted—
“(c) the obligations on the part of the income source;”.
- (6) Section 28 is amended by adding—
“(9) Any attachment order—

(a) made by the court before the commencement date of the Amendment Ordinance in respect of the wages or salary payable to a maintenance payer by the Government; and

(b) which has not been discharged or declared invalid by the court as at that commencement date,

has effect from that commencement date as if it were made under subsection (1) as read with subsection (3A).

(10) An application—

(a) for an attachment order in respect of the wages or salary payable to a maintenance payer by the Government;

(b) that is pending immediately before the commencement date of the Amendment Ordinance; and

(c) in which an attachment order has not been made as at that commencement date,

is to be determined in accordance with this section as amended by the Amendment Ordinance.”.

PART 5

CONSEQUENTIAL AMENDMENTS

Attachment of Income Order Rules

8. Interpretation

(1) Rule 2 of the Attachment of Income Order Rules (Cap. 13 sub. leg. A) is amended by repealing the definition of “income source” and substituting—

““income source” (入息來源) means a person by whom the income of the maintenance payer is payable and includes the Government;”.

(2) Rule 2 is amended by repealing the definition of “wages” and substituting—

““wages” (工資) has the meaning assigned to it by section 2(1) of the Employment Ordinance (Cap. 57), whether the wages are payable by the Government or any other person.”.

9. Verification of signed statement

Rule 5(2)(a) is amended by adding “the Government,” before “a public body”.

10. Forms

The Schedule is amended, in Form 3, in the fourth paragraph—

- (a) by adding “the Government,” before “a public body”;
- (b) in the Chinese text, by adding “特區政府、” before “貴機構”。