

**Legislative Council Panel on Home Affairs
Intermediary bodies for the collection and
enforcement of maintenance payments**

Introduction

At its meeting held in March 1998, the Panel on Home Affairs requested the Research and Library Services Division of the Legislative Council Secretariat to carry out a research on the operation and effectiveness of overseas intermediary bodies responsible for the collection and enforcement of maintenance payments.

2. This paper sets out the Administration's response to the research paper on the one hand and advises Members of the measures Government has taken to enhance the enforcement of maintenance payments on the other.

Intermediary Body

3. The experience of child support agencies in the United States of America, Australia, New Zealand and the United Kingdom shows that such an intermediary body is not as effective as its supporters have claimed.

United States of America

4. Despite the wide power given to the child support agencies, there was still an outstanding debt of around US\$45,000 million for the year 1995-96.

Australia

5. There was an outstanding debt of US\$313 million for the year 1996-97. About 40% of the child support debts are of two years old and an amount of US\$35.2 million has been written off as uncollectable debts since the establishment of the Child Support Agency in 1988.

6. About 40% of parents registered with the child support agency choose to pay and collect privately while 24% of parents administer their own child support schemes without the assistance of the Child Support Agency.

7. The objective of the Australian Child Support Scheme was revised in July 1998 to incorporate the following principles :

- (a) both parents should continue to be encouraged to make suitable arrangements without Government involvement;
- (b) the Scheme should emphasise the responsibility of both parents and the need to limit the extent of Commonwealth involvement; and

- (c) both parents should have maximum input to decisions affecting their children in the development of future child support policy and legislation.

New Zealand

8. The Child Support Agency is conducting a trial scheme to subcontract collection of old debts to the private sector.

United Kingdom

9. About 77% of the child support debts are classified as uncollectable and the outstanding debts for the year 1995-96 stood at US\$1,468 million.

Remedies available to maintenance payees

10. In Hong Kong, assistance and remedies available to maintenance payees who do not receive maintenance payments at present include -

- (a) they may apply to the court for a judgment summons to enforce the maintenance orders. Special slots are reserved in the Family Courts' diaries to hear such applications. The waiting time for hearing judgment

summons has been reduced to about two months on average;

- (b) they may apply to the court for an Attachment of Income Order to attach a maintenance payer's income where he has an attachable income and defaults in payment without reasonable excuse; or
- (c) they may apply for other legal remedies to enforce a maintenance order, including a Prohibition Order preventing the defaulting party from leaving Hong Kong; and a Charging Order to secure payment of maintenance against the defaulting party's property. In the event of continued non-payment, the court can order disposal of the property concerned, the proceeds of which will be used to meet maintenance payments due.

11. Maintenance payees who are in financial difficulties and who cannot afford private legal services may apply for legal aid. Since September 1997, legal aid applications for matrimonial cases could be processed within a matter of days and this include applications for enforcement of maintenance

orders if all the necessary information for enforcement were supplied by the applicants.

12. Furthermore, maintenance payees who run into financial difficulties as a result of default in maintenance payments on the part of their spouse may apply for Comprehensive Social Security Assistance. Where urgent assistance is required, an application can be approved on the same day upon completion of investigation.

Way Forward

13. Our objective is to ensure that divorcees can collect their legal entitlements promptly and regularly. We believe that the measures which came into force since April 1998 can effectively alleviate or remove the difficulties divorcees faced in the past.

14. In April 1999 when the new system would have been in place for one year, we will review the system to identify areas for further improvements, and we hope to complete the review by the end of 1999.

Home Affairs Bureau
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LegCo Panel on Home Affairs**List of discussion items for future meetings****1. Report on the HKSAR under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)**

An outline of topics to be covered under the CAT report was issued for public consultation on 16 July 1998 which ended on 22 August 1998. The Home Affairs Bureau is co-ordinating compilation of the CAT report which will form a discrete section of the CPG's report for submission to the United Nations.

According to the Administration, the report on the HKSAR under CAT is near completion and will be forwarded to CPG before **end December 1998**. The report will be made public once it is submitted to the UN.

2. Reports of the HKSAR on the implementation of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economics, Social and Cultural Rights (ICESCR)

The Administration published the report outline in relation to ICESCR and ICCPR for public consultation which ended in April 1998. The Administration has briefed the Panel on the timetable for preparing the HKSAR reports at the Panel meeting on 27 July 1998. According to the latest information from the Administration, the HKSAR report under ICCPR is almost complete and will be forwarded to the Office of the Ministry of Foreign Affairs before **end December 1998**, for onward transmission to the UN through the CPG's Permanent Mission in New York.

As regards HKSAR's report on ICESCR, the Administration has revised its timetable aiming at completion by **early February 1999**. The Panel may wish to discuss the contents of these reports when they are available.

3. Sex Discrimination Ordinance and Disability Discrimination Ordinance

The Equal Opportunities Commission (EOC) has reported progress to the Panel at a meeting held on 27 July 1998 on its review of the Sex Discrimination Ordinance and Disability Discrimination Ordinance. The review commenced in December 1997, aiming to identify those provisions which may require amendments (including new areas warranting legislation) in the light of operational experience. It is expected that the review will be completed by the end of 1998 and EOC will make its recommendations to the Chief Executive via the Home Affairs Bureau. The Panel may wish to follow up on the recommendations of the review.

4. Review of the definitions of “hotel” and “guesthouse” in the Hotel and Guesthouse Accommodation Ordinance

When studying the Hotel Accommodation (Miscellaneous Provisions) Bill 1998, the Bills Committee formed to study the Bill noted the hotel industry’s request to distinguish “hotel” and “guesthouse” in the definitions in the relevant ordinances, so that hotels and guesthouses may be subject to different licensing requirements. The distinction in definitions will also facilitate tourists in choosing suitable accommodation. However, different views have been expressed by deputatons on a feasible definition. To address members’ concern, the Administration has undertaken to conduct a separate exercise as early as possible to review the definitions of “hotel” and “guesthouse” in consultation with the trade and relevant bureaux. The Panel may wish to follow up on the recommendations of the review.

5. Long-term cultural policy

At the meeting on 26 November 1998, members of the Subcommittee on long- term cultural policy requested the Administration to provide further information on the overseas structure for culture and arts to facilitate further discussion on the subject. The LegCo Secretariat has also written to consulates in Hong Kong to obtain more information in this respect. With regard to the future framework for arts and culture in Hong Kong, the Subcommittee has requested the Administration to brief members on the results of the public consultation exercise before end December 1998. It is expected that the Subcommittee will hold its next meeting by the end of December 1998 when relevant information is available. The Subcommittee will report to the Panel on its deliberations in due course.

Legislative Council Secretariat

8 December 1998