

**Legislative Council Panel on Home Affairs
Meeting on 2 June 2000**

**Report by Inter-departmental Working Group on
Review of law and administrative measures affecting
divorcees and children eligible for alimony**

This paper presents the captioned Report, a copy of which is enclosed.

Background

2. On 8 December 1999, the Legislative Council passed a motion urging the Government to “improve the procedure for recovering alimony so as to enhance its efficiency, and to set up an alimony council to assist in the collection and payment of alimony to single-parent families”. During the debate, the Secretary for Home Affairs said that an Inter-departmental Working Group had been conducting a review and undertook to present to the relevant Panel the conclusions of the review when available.

3. In conducting the review, the Working Group took into account the views of the following parties:

- (a) Members of the then Legislative Council in a debate held on 26 February 1997, which passed a motion urging the Government to establish a maintenance board;
- (b) Members of the Legislative Council in the motion debate on 8 December 1999;
- (c) Members of the Legislative Council Panel on Home Affairs during those meetings when the issue of maintenance was discussed;

- (d) about 25 non-governmental organizations (NGOs) and professional bodies; and
- (e) the committees of six Provisional District Boards (PDBs).

Inter-departmental Working Group's Report

4. The Report contains a summary of recommendations ("Summary"), followed by chapters detailing the Working Group's methodology, findings and recommendations.

5. The difficulties encountered by divorcees in collecting and enforcing maintenance are summarized in para. 3.1 of the Report. To address the difficulties, the Working Group has made the following recommendations:

- (a) relax the criteria for the issue of Attachment of Income Orders (*paras. 1 and 2 of the Summary and paras. 4.1 to 4.12 of the Report*);
- (b) relax the requirement for judgement summonses to be served personally and enable the court to order payment of maintenance arrears accrued up to the date of court hearing instead of up to the date of application for judgement summonses at present (*paras. 3 to 6 of the Summary and paras. 4.18 to 4.22 of the Report*);
- (c) Court Bailiffs to serve judgement summonses for maintenance payees who are not legally represented (*para. 6 of the Summary and paras. 4.23 and 4.24 of the Report*);
- (d) the court to order that maintenance specified in maintenance orders be paid into court in appropriate cases (*para. 8 of the Summary and paras. 4.29 to 4.32 of the Report*);
- (e) empower the court to impose a surcharge against defaulting maintenance payers (*para. 9 of the Summary and para. 4.33 of the Report*);

- (f) inform the NGOs and professional bodies that cases of maintenance payers failing to notify the maintenance payees of changes of address can be reported to the police station nearest to the maintenance payer's last known address (*paras. 10 and 11 of the Summary and paras. 4.34 to 4.39 of the Report*);
- (g) request the Law Society to inform its members that they can, with the use of a standard letter, request the Immigration Department, Transport Department, and Housing Department to search their records for addresses of maintenance payers against whom legal actions will be taken to sue for arrears in maintenance (*see para. 12 of the Summary and paras. 4.36 to 4.38 of the Report*);
- (h) conduct a pilot scheme to synchronize the procedures in processing applications for Comprehensive Social Security Assistance and legal aid (*see para. 16 of the Summary and paras. 4.43 to 4.51 of the Report*);
- (i) Social Welfare Department to streamline the procedures in referring single-parent families to obtain timely counselling and family services (*para. 17 of the Summary and paras. 4.52 to 4.54 of the Report*); and
- (j) undertake publicity and public education on matters relating to maintenance (*see paras. 18 and 19 of the Summary and paras. 4.55 to 4.58 of the Report*).

6. As regards the proposal for a maintenance board, the Working Group considers that the proposed board would not be able to offer maintenance payees or taxpayers any significant benefits over and above those that can be achieved by improving the existing system (see para. 20 of the Summary and Chapter 5 of the Report).

7. The Working Group will continue to exist to monitor the implementation of the relevant legislation and administrative measures with a view to identifying areas for further improvement.

Way Forward

8. The Administration has accepted the Working Group's recommendations, which represent a comprehensive response to the views expressed by the Legislative Council, PDBs, NGOs, and professional bodies on the subject.

9. The Administration will implement the recommendations as soon as possible. To date, the following actions have been taken or planned to be taken:

- (a) the recommendations referred to in para. 5(a), (b) and (e) require legislative amendments. Subject to the availability of legislative time-slots, the Administration will introduce the relevant Bills within the first half of the 2000-01 legislative year;
- (b) NGOs and professional bodies will be informed of the recommendations referred to in para. 5(c), (d), and (f) above;
- (c) with reference to the recommendation in para. 5(g) above, the Law Society has already circulated to its members the standard letter prepared by HAB;
- (d) the pilot scheme referred to in para. 5(h) above was launched in SWD's Mongkok Field Unit and LAD's Kowloon Branch Office on 1 March 2000. With effect from 1 June 2000, SWD and LAD will extend the pilot scheme to all 38 Field Units of SWD but the extension will cover only those cases where the CSSA recipients require legal aid to enforce maintenance orders;
- (e) on the recommendation referred to in para. 5(i), SWD has streamlined the referral procedure between Social Security Field Units and family services centres so that single parent families will receive prompt counselling service or financial assistance. New referral forms and a specially designed leaflet on services available and facilitating early referral are put into use. Family caseworkers, as the key workers among other service providers,

co-ordinate services and assistance required by the families, and will provide counselling with co-ordinated information to assist the single parents if they fail to receive the alimony payable; and

- (f) on the recommendation referred to in para. 5(j), Finance Bureau has already approved a capital account item of \$1 million in order to fund publicity and public education projects to be conducted by NGOs in the next three years. In addition, HAB and other departments concerned will undertake other such projects by using their existing resources.

10. The Report will be circulated to the NGOs, professional bodies and District Councils consulted during the review.

Advice sought

11. This paper and the Report are presented for discussion by the Panel at its meeting to be held on 2 June 2000.

Home Affairs Bureau
29 May 2000