

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2619/06-07  
(These minutes have been  
seen by the Administration)

Ref : CB2/BC/10/06

**Bills Committee on Attachment of Income Order**  
**(Application to Government and Miscellaneous Amendments) Bill 2007**

**Minutes of the second meeting**  
**held on Monday, 23 July 2007, at 10:45 am**  
**in Conference Room B of the Legislative Council Building**

**Members present** : Hon CHOY So-yuk, JP (Chairman)  
Hon Albert HO Chun-yan  
Hon Margaret NG  
Hon James TO Kun-sun  
Hon CHAN Yuen-han, SBS, JP  
Hon Miriam LAU Kin-ye, GBS, JP

**Public Officers attending** : Item III  
  
Mr Donald TONG  
Deputy Secretary for Home Affairs  
  
Mrs Alice CHEUNG  
Principal Assistant Secretary for Home Affairs  
  
Ms Phyllis POON  
Government Counsel

**Clerk in attendance** : Miss Betty MA  
Chief Council Secretary (2) 4

**Staff in attendance** : Mr Stephen LAM  
Assistant Legal Adviser 4

Mr Chris LAI  
Senior Council Secretary (2) 7

Miss Maggie CHIU  
Legislative Assistant (2) 4

Action

---

**I. Confirmation of minutes**

[LC Paper No. CB(2)2517/06-07]

The minutes of the meeting held on 11 July 2007 were confirmed.

**II. Application for late membership**

[LC Paper No. CB(2)2518/06-07(01)]

2. The Chairman drew members' attention to Rule 23 (c) of the House Rules concerning application for late membership. Members accepted the application for late membership made by Ms Miriam LAU.

**III. Meeting with the Administration**

[Legislative Council Brief, the Bill, LC Paper Nos. LS92/06-07, CB(2)2388/06-07(01) and CB(2)2518/06-07(02) to (04)]

3. The Bills Committee deliberated (index of proceedings attached at **Annex**).

Admin

4. The Administration was requested to –

(a) consider whether the drafting of the definition of "income source" reflected the policy intent, in particular whether it would give rise to uncertainty about the scope of persons to be included/excluded from the Attachment of Income Order (AIO) legislation;

(b) advise whether the AIO legislation would be applicable to local employees of consulates established in Hong Kong and offices of multinational corporations operating in Hong Kong and if not, the reasons why it was not necessary to stipulate this in the legislation; and

Action

- (c) review whether the Bill should seek to validate all AIOs already made against wages or salary payable to a maintenance payer by the Government.

ALA4

5. Members requested the legal adviser to the Bills Committee to provide his opinion on the Administration's response to item (c) above.

6. Noting that the Director of Accounting Services was handling 64 AIOs issued by the Court against the Government as an income source, members considered that these AIOs were void given that the Court of Appeal had handed down a judgment on 7 December 2006 which gave clear ruling that no attachment order could be made in respect of any wages or salary paid by the Government in view of the proviso to section 23(1) of the Crown Proceedings Ordinance (Cap. 300). To prevent the Government from any possible challenge of wrongful deduction of wages and salary from the employees concerned, members strongly urged the Administration to review without delay the lawfulness of the existing arrangement in handling the 64 AIOs in question. The Administration agreed to consider members' views and provide a response.

Admin

**IV. Any other business**

7. Members agreed to schedule two meetings in September 2007 to continue discussion with the Administration. The Chairman said that members would be informed of the meeting dates in due course.

8. There being no other business, the meeting ended at 12:10 pm.

Council Business Division 2  
Legislative Council Secretariat  
14 August 2007

**Proceedings of the second meeting of the  
Bills Committee on Attachment of Income Order  
(Application to Government and Miscellaneous Amendments) Bill 2007  
on Monday, 23 July 2007, at 10:45 am  
in Conference Room B of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
000000 - 000120	Chairman	Confirmation of minutes	
000121 - 000215	Chairman	Application for late membership made by Ms Miriam LAU	
000216 - 000857	Admin	Briefing by the Administration on the background for introducing and the objectives of the Attachment of Income Order (Application to Government and Miscellaneous Amendments) Bill 2007 (the Bill)	
000858 - 003157	Chairman Mr Albert HO Mr James TO Ms Miriam LAU ALA4 Admin	<p>Issues of concern raised by Mr Albert HO, Mr James TO and Ms Miriam LAU –</p> <p>(a) the scope of application of the definition of "income source" in the Bill, in particular whether the Attachment of Income Order (AIO) Scheme would be applicable to local employees of multinational corporations operating in Hong Kong; and</p> <p>(b) the meaning of the terms "wages" and "salary"</p> <p>The Administration's response that –</p> <p>(a) an AIO was directed against an income source (by whom the income was payable). The AIO Bill, like other Hong Kong legislation, did not have extra-territorial effect; and</p> <p>(b) the terms "wages" and "salary" included remuneration in respect of work done payable in cash to maintenance payers by an income source</p>	
003158 - 004518	Ms Margaret NG Admin	<p>Discussion on Ms Margaret NG's concern about –</p> <p>(a) the definition of "income source" as "a person by whom the income of the maintenance payer is payable and includes the Government" under the proposed amendments;</p> <p>(b) the legality of the enforcement of the 64 AIOs against Government employees after the handing down of the Court of Appeal's judgment in the case of <i>L and L</i> on 7 December 2006; and</p> <p>(c) whether the proposal to validate AIOs made in respect of the wages or salary payable to a maintenance payer by the Government before the commencement of the Amendment</p>	<b>ALA to provide opinion on the Admin's</b>

Time marker	Speaker(s)	Subject(s)	Action required
		Ordinance would give rise to challenges	<b>response (para. 5 of the minutes)</b>
004519 - 005539	Mr Albert HO Mr James TO Chairman	Views of Mr Albert HO and Mr James TO that the Government should not continue to enforce AIOs against its employees in the light of the Court of Appeal's ruling  The Administration's advice that the Department of Justice confirmed that the existing arrangement was legally in order but would take into account members' views and re-consider this arrangement	<b>Admin to provide response (para. 6 of the minutes)</b>
005540 - 010943	Chairman Miss CHAN Yuen-han ALA4 Admin	The views of Miss CHAN Yuen-han that –  (a) an intermediary body should be set up for the collection and enforcement of maintenance payments; and  (b) the Administration should provide an exhaustive list of the types of persons whose income source was from the Government  The Administration's response that an exhaustive list was impractical, as there would be inadvertent omissions and possible changes over time	
010944 - 011635	Ms Miriam LAU Admin	Ms Miriam LAU's suggestion that the Administration should consider adopting other arrangements to assist the maintenance payees to recover arrear payments from Government employees in the light of the ruling of the Court of Appeals in December 2006	
011636 - 012239	Chairman Admin Ms Miriam LAU Mr Albert HO Miss CHAN Yuen-han	The Chairman's view that mediation could be provided to the maintenance payers and payees involved in the 64 AIOs against the wages of Government employees  Views of Mr Albert HO that authorisation from Government employees could be sought for deduction of wages and salary for payments to maintenance payees in lieu of AIOs  Outstanding issues to be followed up by the Administration	<b>Admin to provide response (para. 4 of the minutes)</b>
012240 - 012454	Chairman	Date of next meeting	