

Bankruptcy: Your Rights as a Creditor

The court makes a Bankruptcy Order and the Official Receiver becomes the provisional trustee of the bankrupt's assets. (Section 12)

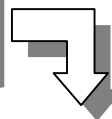


In case of a debtor's petition, the Official Receiver as provisional trustee may appoint any qualified person as provisional trustee if the assets are unlikely to exceed \$200,000. (Section 12(1A))



If you have already received a payment from the Protection of Wages on Insolvency Fund, you must provide full details of the payment in your proof of debt.

You should submit to the provisional trustee/the trustee your proof of debt as soon as possible using Form 46A. Otherwise, you may not be entitled to vote at the general meeting of creditors or to receive a dividend. (Rule 109)

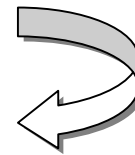


Where the assets are likely to exceed \$200,000 in value, the provisional trustee holds a general meeting of creditors. You will be notified to attend. (Section 17A)

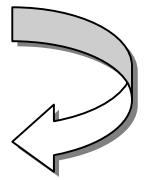
Where the assets are likely to be \$200,000 or less in value, the provisional trustee applies to the court for a summary procedure order and the provisional trustee is appointed as trustee. There is no meeting of creditors. (Section 112A)



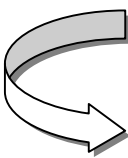
At the meeting, if you have filed a valid proof of debt, you have the right to vote on the appointment of:
(1) a trustee; (Section 17A)
(2) a creditors' committee. (Section 24)



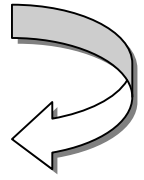
Where a Bankruptcy Order has been made, the trustee may at any time before the discharge of the bankrupt apply to the court for the public examination of him/her. Any creditor, with the concurrence of not less than 1/4 in value of all creditors, may require the trustee to apply to the court for the public examination of the bankrupt. (Section 19)



The trustee realises the assets. Where there are sufficient assets for a dividend and if your proof of debt is admitted, you will receive a dividend.



Once all the assets have been realised and a final dividend has been paid, if any, the trustee applies to the court for his/her release. (Section 94) You will receive a notice from the trustee of his/her intention to do so and also a summary of his/her receipts and payments. If you object to the release, you must provide justification to the trustee or the court within 21 days from the date of the notice. (Rule 169)



The bankrupt is normally discharged from bankruptcy four years after the making of the Bankruptcy Order. The trustee or any creditor may object to the discharge on the grounds set out in Section 30A, e.g. failure to co-operate with the trustee or failure to submit annual statements of his/her earnings and assets acquired during the bankruptcy period.

- Note 1:** The Sections and Rules quoted above refer to the relevant sections and rules in the Bankruptcy Ordinance (Cap. 6) and Bankruptcy Rules.
- Note 2:** Related flowcharts: "Bankruptcy : The main processing stages" and "Bankruptcy: Your duties as a bankrupt".
- Note 3:** Creditors include employees.
- Note 4:** The provisional trustee/trustee may be the Official Receiver or other qualified person.