



OFFICIAL RECEIVER'S OFFICE

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來函檔號 YOUR REF.:

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- (i) The Hong Kong Institute of Certified Public Accountants
- (ii) The Law Society of Hong Kong
- (iii) The Hong Kong Chartered Governance Institute

20 October 2023

Dear Sirs,

Bankruptcy and Companies Legislation

(Miscellaneous Amendments) Ordinance 2023 (Commencement) Notice 2023

Pursuant to section 1(3) of the Bankruptcy and Companies Legislation (Miscellaneous Amendments) Ordinance 2023 (“**the Ordinance**”), the Secretary for Financial Services and the Treasury, by a notice published in the Gazette on 20 October 2023 (“**the Commencement Notice**”), appoints **29 December 2023** for the commencement of the following provisions of the Ordinance:

- (a) sections 3, 4, 5, 8, 9, 15, 16, 17, 18 and 21 of Part 2; and
- (b) Part 3.

Electronic version of the Commencement Notice is available at both the websites of the Official Receiver’s Office and the Government Logistics Department:

English version: <https://www.gld.gov.hk/egazette/english/index.html>

Chinese version: https://www.gld.gov.hk/egazette/tc_chi/index.html

As stated in our earlier letter dated 12 July 2023, Part 2 of the Ordinance deals with amendments in the Bankruptcy Ordinance (Cap. 6) (“**the BO**”), the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) (“**the CWUMPO**”) and their subsidiary legislation relating to the submission of certain documents to the Official Receiver by electronic means.

With the commencement of the selected provisions in Part 2, the Official Receiver will specify forms and requirements relating to the electronic submissions of the documents, including the following:

- Annual Statement of Earnings and Property Acquired under section 43A of the BO to be submitted to Official Receiver as the trustee; and
- Report on the investigation of the conduct of the bankrupt under section 86A of the BO.

The Official Receiver's Office will further provide details of the electronic submissions system via its website.

Part 3 of the Ordinance deals with amendments in the BO, the CWUMPO and their subsidiary legislation to (a) require various notices, orders or matters under the relevant provisions to be published or given in the specified means as provided in Schedule 4 to the BO and Schedule 27 to the CWUMPO respectively; and (b) remove the newspaper advertising requirements. At present, the Gazette is the only specified means in the two schedules. Annex 1 to this letter provides a summary of the relevant major amendments. There are also amendments to some of the prescribed forms under the Bankruptcy (Forms) Rules (Cap. 6B) and the appendix to the Companies (Winding-up) Rules (Cap. 32H).

The amendments in Part 3 however do not affect the power of the court to make orders on the publication of notices. Where appropriate, practitioners may wish to consider whether to adopt additional advertising to bring the relevant matters to the attention of the public, including consideration on the mode of publicity to be used, which can be electronic or web-based or by way of newspaper.

The remaining provisions in Part 2 are expected to commence in 2025. The Official Receiver will provide further information in due course.

Please circulate this letter to your members who are insolvency practitioners for their attention. Should there be any query on this letter, please contact our enquiry hotline at 2867 2448 or by email at roadmin@oro.gov.hk.

Yours faithfully,

Signed

(Michael T S Cheung)
for Official Receiver

**Major Changes to the Publication of Notices under Part 3 of the Bankruptcy and Companies Legislation
(Miscellaneous Amendments) Ordinance 2023 (“the Ordinance”)**

IMPORTANT NOTE:

1. This Annex 1 is meant to facilitate the insolvency practitioners in understanding the major changes to the publication of notices consequential to the commencement of Part 3 of the Ordinance.
2. The users of Annex 1 are reminded to seek independent legal advice if in doubt of their legal position.

Abbreviations:

BO	means the Bankruptcy Ordinance (Cap. 6), after the commencement of Part 3 of the Ordinance;
BR	means the Bankruptcy Rules (Cap. 6A), after the commencement of Part 3 of the Ordinance;
CWUMPO	means the Companies (Winding Up and Miscellaneous Ordinance) (Cap. 32), after the commencement of Part 3 of the Ordinance; and
CWUR	means the Companies (Winding-up) Rules (Cap. 32H), after the commencement of Part 3 of the Ordinance.

Meaning of specified means:

“Specified means” has the meaning given under section 2A of the BO (newly introduced under section 28 of the Ordinance) and section 2C of the CWUMPO (newly introduced under section 56 of the Ordinance). Under these sections, the Secretary for Financial Services and the Treasury is empowered to publish a notice in the Gazette to specify a medium as set out in Schedule 4 to the BO and Schedule 27 to the CWUMPO respectively for the publication of the relevant notices. At present, the Gazette is the only specified medium under the two schedules.

A. Bankruptcy related				
No.	Notices	Provisions	Means of publication prior to commencement of Part 3 of the Ordinance	Means of publication after commencement of Part 3 of the Ordinance
1.	Notice of bankruptcy order or administration order	BO s.16; BR r.78 and r.146	Gazette and newspaper	Specified means
2.	(As an alternative to specific notice to proving creditors) Notice to creditors in relation to the automatic discharge of the bankrupt	BO s.30A	Newspaper	Specified means
3.	(Where an undischarged bankrupt wishes to engage in any trade or business under a name other than that under which he was adjudicated bankrupt) Notice of his bankruptcy and particulars of the intended trade or business	BO s.131	Gazette and newspaper	Specified means
4.	Notice of the discharge of a bankrupt (if required by a discharged bankrupt)	BR r.92	Gazette and/or newspaper	Specified means
5.	Notice of meeting of creditors for appointment of first trustee	BR r.99A	Gazette and newspaper	Specified means
6.	Notice summoning creditors' meeting (Individual Voluntary Arrangement)	BR r.122M	Newspaper	Specified means

B. Winding-up related				
No.	Notices	Provisions	Means of publication prior to commencement of Part 3 of the Ordinance	Means of publication after commencement of Part 3 of the Ordinance
7.	(Where the liquidator considers that the company would not be able to pay its debts in full within the period stated in the certificate of solvency) Notice of the creditors' meeting	CWUMPO s.237A(1A)	Gazette and newspaper	Specified means
8.	(In creditors' voluntary winding-up) Notice of meeting of creditors	CWUMPO s.241(2)	Gazette and newspaper	Specified means
9.	Notice of the winding-up order	CWUR r.36	Gazette and newspaper	Specified means
10.	Notice of the order for appointment of a provisional liquidator	CWUR r.36	Gazette and newspaper	Specified means
11.	Notice of public examination to creditors and contributories	CWUR r.55	Gazette and newspaper	Specified means
12.	(If desire to make any call on the contributories and if there is a committee of inspection) Notice of the intended call and of the meeting of the committee to sanction the intended call	CWUR r.74	Newspaper	Specified means

13.	(If desire to fix a certain day on or before which the creditors are to prove their debts) Notice to creditors to prove	CWUR r.93	Newspaper	Specified means
14.	Notice of meetings of creditors and contributories	CWUR r.114	Gazette and newspaper	Specified means