

Official Receiver's Office Hong Kong Special Administrative Region

Bankruptcy: The Main Processing Stages

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Creditor's Petition

- A company or a person who is owed a sum of \$10,000 or more by an individual or a firm may present a bankruptcy petition. (Section 6)
- The petitioner shall deposit with the Official Receiver the sum of \$11,250 to cover his fees and expenses. (Rule 52)

Debtor's Petition

- A person who is unable to pay his debts, regardless of the amount, may present a bankruptcy petition.
- The petitioner must submit a sworn statement of affairs with the petition to the Official Receiver and deposit with him a sum of \$8,000 to cover his fees and expenses. (Section 10 and Rule 52)



COURT HEARING



The bankrupt must physically attend the provisional trustee's office for the initial interview to provide information concerning his/her affairs, dealings and property as reasonably required and to arrange the hand-over of his/her assets and books and records to the provisional trustee (Note 4).

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



The provisional trustee interviews the bankrupt. In the case of a creditor's petition, the provisional trustee provides him/her with the forms for submission of a sworn statement of affairs within 21 days.

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))





The provisional trustee takes possession of the bankrupt's assets and determines the amount of regular financial contributions he/she may be required to make.



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)

Where the assets are likely to exceed \$200,000 in value, the provisional trustee holds a general meeting of creditors to consider the appointment of:

- (1) a trustee; (Section 17A)
- (2) a creditors' committee. (Section 24)



The trustee realises the bankrupt's assets, collects regular financial contributions from him/her, where appropriate, and pays a dividend to the creditors, where possible. (Section 67)





The trustee refers any misconduct of the bankrupt to the Official Receiver for consideration of prosecution (Sections 43A, 129, 130, 131, 132, 133, 103, 135 etc.). (Section 86A)



Where the trustee considers that there are no more realisable assets and that further investigations are unnecessary, the trustee applies to the court for release under Section 94.



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 his/her annual statements of earnings and assets acquired during the bankruptcy period. The bankruptcy period may also be prolonged if a non-commencement order is made (*Note 4*).

- Note 1: The Sections and Rules quoted herein refer to the relevant sections and rules in the Bankruptcy Ordinance (Cap. 6) and Bankruptcy Rules (Cap.6A).
- Note 2: Related flowcharts: "Bankruptcy: Your rights as a creditor" and "Bankruptcy: Your duties as a bankrupt".
- **Note 3**: The provisional trustee/trustee may be the Official Receiver or other qualified person.
- Note 4: For case with Bankruptcy Order made on or after 1 Nov 2016, where the bankrupt fails to physically attend the initial interview or has physically attended the initial interview, but failed to provide the provisional trustee/trustee at the initial interview with all of the information concerning his/her affairs, dealings and property as reasonably required by the provisional trustee/trustee, the provisional trustee/trustee may apply to the court for a non-commencement order against the bankrupt by which the relevant period of bankruptcy may be extended. (Section 30AB)