

**Bills Committee on Bankruptcy (Amendment) Bill 2004
Sixth meeting on 1 April 2005**

List of follow-up actions to be taken by the Administration

Tendering scheme for outsourcing summary bankruptcy cases to private-sector insolvency practitioners (PIPs)

1. To enhance the transparency and fairness of the tendering scheme for outsourcing summary bankruptcy cases, the Administration is requested to consider setting out the criteria for assessing the tenders. In this connection, members consider that the assessment criteria should include not only tender price but also other factors, such as the tenderers' manpower resources for undertaking the outsourced summary bankruptcy cases, past experience in insolvency work and track record in providing relevant services.

Qualification criteria for appointment as provisional trustees or trustees for summary bankruptcy cases

2. To ensure the quality of service to be provided by PIPs in the handling of outsourced summary bankruptcy cases and to enhance the transparency of the outsourcing scheme, the Bills Committee considers that the detailed qualification criteria for appointment as provisional trustees or trustees for summary bankruptcy cases should be set out in the Official Receiver's Office (ORO)'s tender documents and the basic qualification criteria in subsidiary legislation. In this connection:
 - (a) the Administration agrees that the detailed qualification criteria be set out in tender documents and that it would provide a sample of the tender document to be used in the tendering scheme for outsourcing summary bankruptcy cases; and
 - (b) the Administration undertakes to work out the detailed proposals for setting out the basic qualification criteria in subsidiary legislation, taking into account the views expressed by the Association of Chartered Certified Accountants, Hong Kong Association of Banks, Hong Kong Institute of Company Secretaries (HKICS), Hong Kong Institute of Certified Public Accountants (HKICPA), Grant Thornton, and Hong Kong Bar Association in their written submissions to the Administration in February or March 2005. The Administration also indicates that it would consult the three relevant stakeholders, i.e. the Law Society of Hong Kong, HKICS and HKICPA, before presenting the proposals to the Bills Committee for its consideration.

Process of handling summary bankruptcy cases

3. In order to facilitate members' understanding of the process of handling summary bankruptcy cases by ORO, the Administration is requested to provide a full set of sample documents involved in the process and the ORO's internal guidelines for handling such cases.

Clause 2

4. For the sake of clarity, the Administration accepts the suggestion of a member that the definition of "trustee" in section 2 of the Bankruptcy Ordinance (BO) should make reference to the new subsection (1B) of section 58 which provides that save in certain sections, the provisional trustee shall, unless the context otherwise requires, be regarded as the trustee for the purposes of BO. The Administration undertakes to prepare draft Committee Stage amendments (CSAs) accordingly.

Clause 5

5. On the proposed section 15(4)(a) of BO, the Administration undertakes to consider a member's suggestion of adding "under section 12(1A)" after "provisional trustee" to improve the clarity of the proposed provision.
6. On the proposed section 15(4)(b) of BO, the Administration undertakes to consider a member's suggestion of setting out clearly when the term of office of the special manager shall cease, such as by adding "appointed or constituted under section 81(4)" after "a trustee".

Clause 9

7. On section 19 of BO, the Administration is requested to provide a paper covering the following items:
 - (a) Reasons for and purpose of the proposed deletion of section 19(8); and
 - (b) Whether the proposed amendments to section 19, i.e. the proposed addition of subsections (4A) and (4B) and the proposed deletion of subsection (8), involve a policy change.