

**Bills Committee on Bankruptcy (Amendment) Bill 2004
Eighth meeting on 10 May 2005**

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

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

As agreed at the meeting on 1 April 2005, the Administration will present to the Bills Committee its detailed proposals for setting out in subsidiary legislation the basic qualification criteria for appointment as provisional trustees or trustees for summary bankruptcy cases.

2. Handling of summary bankruptcy cases

As requested by the Bills Committee at the meeting on 1 April 2005, the Administration undertakes to provide the Official Receiver's Office's internal guidelines for handling summary bankruptcy cases.

3. Clause 11 – proposed section 37(1) of the Bankruptcy Ordinance (BO)

The Administration is requested to take the following actions:

- (a) To reconsider how to address the concerns expressed by members and deputations about the proposed arrangement to accord the remuneration and necessary disbursements of PIPs almost the lowest priority for payment (the proposed subsections (1)(f), (g) and (h) of section 37);
- (b) In connection with item (a) above, given that the summary bankruptcy cases are outsourced to PIPs by the Official Receiver (OR), and that PIPs in administering the outsourced cases will perform the same functions and duties as OR in administering non-outsourced cases, the Administration is requested to consider a member's suggestion to regard PIPs as persons employed by OR so that PIPs' remuneration and expenses will be included as costs incurred by OR under the proposed section 37(1)(a) and accorded higher priority in payment;

- (c) To consider a member's suggestion of setting it out clearly in the provision that "remuneration of, fees, commissions, percentages and charges payable to" OR referred to in the proposed section 37(1)(a) mean those fees, charges and percentages set out in the Bankruptcy (Fees and Percentages) Order so as to avoid any ambiguity;
- (d) To rectify the inconsistency in the English and Chinese text of the proposed section 37(1)(a) where the English text referred to "the remuneration of, fees, commissions, percentages and charges payable to, and costs, charges and expenses incurred or authorized by, the Official Receiver.....", while the Chinese text referred to "破產管理署署長的酬金、須支付予破產管理署署長的費用、手續費、百分率及收費，或破產管理署署長所招致或批准的訟費、收費及開支....."; and
- (e) In the event that OR employs an external party to look into any suspected malpractices of a PIP in handling outsourced summary bankruptcy cases, the Administration is requested to confirm whether the cost incurred will be deducted from the debtor-deposit; if it will, to address members' concern that the cost, which may involve a substantial amount, will eat up the balance of the debtor-deposit; if not, to advise how the cost will be covered.

4. Clause 17 – proposed section 60(1) of BO

The Administration undertakes to consider the Legal Adviser to the Bills Committee's suggestion of recasting the proposed section 60(1) to provide OR when acting as provisional trustee with the power of taking into his custody or control the property of the bankrupt as provided to other provisional trustees in the proposed section 60(2)(a).