

**Bills Committee on Bankruptcy (Amendment) Bill 2004
Tenth meeting on 26 May 2005**

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

1. Basic qualification criteria for appointment as provisional trustees for summary bankruptcy cases

Members note the Administration's policy intent that the "reasonable conditions" which the Official Receiver (OR) may impose on a person for appointment as a provisional trustee are those conditions to be set out in the tender document for outsourcing summary bankruptcy cases, including the conditions that the person should have a certain number of years of post-qualification experience and a minimum number of professional or chargeable hours in respect of insolvency work. To address members' concern that the drafting of section (b) of the proposed new Schedule 3 to the Bankruptcy Ordinance (BO) does not reflect this policy intent, the Administration undertakes to consider the suggestion for the Secretary for Financial Services and the Treasury to state such policy intent in his speech when the Second Reading debate on the Bill is resumed;

2. Long title and clause 11 – proposed section 37(1) of the Bankruptcy Ordinance

The Administration is requested to take the following actions and report its response to the Bills Committee at the next meeting on 3 June 2005:

- (a) Given that bankruptcy cases and company winding-up cases are different in nature, the Administration is requested to review its original proposal of bringing the order of priority of payment of costs and charges out of a bankrupt's estate as set out in section 37 of the BO in line with rule 179(1) of the Companies (Winding-up) Rules (Cap. 32, sub. leg. H);
- (b) In connection with item (a) above, the Administration is requested to consider members' suggestion of elevating the priority of payment of the necessary disbursements, costs and remuneration of the private-sector insolvency practitioners (PIPs) for summary bankruptcy cases. A suggested option is to incorporate the proposed subsections (1)(f), (g) and (h) of section 37 in subsection (1)(a); and
- (c) In connection with items (a) and (b) above, given that the long title provides that one of the objects of the Bill is "to bring section 37 in line with rule 179(1) of the Companies (Winding-up) Rules", the

Administration is requested to consider the need for amending the long title as a result of the proposed amendments to section 37 of the BO to ensure that the proposed amendments are consistent with the long title.

3. Monitoring of PIPs' work

The Administration is requested to note a member's view that in carrying out audit checks on PIPs' work in outsourced summary bankruptcy cases, the OR should strike a proper balance between the need to ensure the quality of PIPs' work and avoid creating undue burden on PIPs.

4. Updated draft proposed Committee Stage amendments (CSAs) to the Bill

The Administration undertakes to provide the Bills Committee with the bilingual version of a full set of the updated draft proposed CSAs to the Bill.

Council Business Division 1
Legislative Council Secretariat
27 May 2005