

**立法會**  
**Legislative Council**

LC Paper No. CB(1)337/04-05  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/2/04

**Bills Committee on Bankruptcy (Amendment) Bill 2004**

**Minutes of the first meeting held on  
Wednesday, 3 November 2004, at 10:45 am  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon TAM Heung-man (Chairman)  
Hon Albert HO Chun-yan  
Dr Hon LUI Ming-wah, JP  
Hon CHAN Kam-lam, JP  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon LI Kwok-ying, MH  
Hon KWONG Chi-kin
- Members absent** : Hon Audrey EU Yuet-mee, SC, JP  
Hon Ronny TONG Ka-wah, SC
- Public officers attending** : Miss Emma LAU  
Deputy Secretary for Financial Services and the Treasury  
(Financial Services)
- Mr Alan LO  
Principal Assistant Secretary for Financial Services and  
the Treasury (Financial Services)
- Mr Arthur AU  
Assistant Secretary for Financial Services and the Treasury  
(Financial Services)

Mr E T O'Connell  
Official Receiver

Ms May LEE  
Assistant Official Receiver

Ms Vicki LEE  
Senior Government Counsel  
Department of Justice

**Clerk in attendance :** Miss Salumi CHAN  
Chief Council Secretary (1)5

**Staff in attendance :** Mr KAU Kin-wah  
Assistant Legal Adviser 6

Ms Connie SZETO  
Senior Council Secretary (1)4

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**I. Election of Chairman**

Miss TAM Heung-man was elected Chairman of the Bills Committee.

**II. Meeting with the Administration**

(LC Paper No. CB(3)42/04-05

— The Bill

LC Paper No. CB(1)137/04-05(01)

— Marked-up copy of the  
Bankruptcy (Amendment) Bill  
2004

Ref: C3/17 (2003) Pt. 8

— The Legislative Council Brief  
on “Bankruptcy (Amendment)  
Bill 2004” issued by the  
Financial Services and the  
Treasury Bureau

LC Paper No. LS7/04-05

— The Legal Service Division  
Report

LC Paper No. CB(1)138/04-05(01) — Background brief prepared by the Legislative Council Secretariat)

2. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

*(Post-meeting note: The powerpoint presentation material provided by the Administration was issued to members vide LC Paper No. CB(1)166/04-05(01) on 4 November 2004.)*

Follow-up actions to be taken by the Administration

3. At the request of the Bills Committee, the Administration agreed to take the following actions:

- (a) To facilitate members' understanding of the tendering scheme for outsourcing summary bankruptcy cases to private-sector insolvency practitioners (PIPs), the Administration was requested to provide a paper on the scheme, including the following information –
  - (i) Policy, design and operation of the tendering scheme;
  - (ii) Qualification criteria for PIPs to participate in the tendering scheme; and
  - (iii) Copies of the tender document and contract used in the existing tendering scheme for outsourcing liquidation cases.
- (b) To facilitate members' understanding of the financial arrangements involved in the handling of bankruptcy cases by PIPs, the Administration was requested to provide the following information –
  - (i) Different purposes for which the bankruptcy petition deposit might be used (such as remuneration for PIPs) and the handling the balance of the deposit, if any;
  - (ii) The means available for creditors to review the remuneration of PIPs; and
  - (iii) How PIPs could recover the investigation costs involved.
- (c) Given the need to monitor the performance of PIPs in handling bankruptcy cases so as to ensure that they would exercise their powers in a reasonable and consistent manner, the Administration was requested to provide a paper on the subject, including the following information –
  - (i) Duties and obligations of PIPs in handling bankruptcy cases, and the performance pledge applicable to them;
  - (ii) Powers conferred upon PIPs for handling bankruptcy cases;

- (iii) Statutory and non-statutory means to ensure that PIPs would exercise their powers in a reasonable and consistent manner;
- (iv) Existing guidelines provided to PIPs for handling liquidation cases and future guidelines to be provided to PIPs for handling bankruptcy cases, including the guidelines on the interpretation of “reasonable domestic needs” of the bankrupt and his family; and
- (v) The interpretation of “reasonable domestic needs” by the court in bankruptcy cases.

*(Post-meeting note: To address members’ concerns about the staffing implications of the outsourcing proposal, the Chairman directed after the meeting that the Administration be invited to provide the following information:*

- (a) Impact of the outsourcing proposal on the manpower requirement of the Official Receiver’s Office;
- (b) Re-deployment plans for the existing staff involved in administering summary bankruptcy cases after implementation of the outsourcing exercise; and
- (c) Outcome of staff consultation on the outsourcing proposal.)

#### Consultation with the public and relevant organizations

4. The Bills Committee agreed to invite the public to give views on the Bill by issuing a press release, announcing an invitation for views on the LegCo website, and writing to the 18 District Councils. The Bills Committee also agreed to invite submissions from the organizations/individuals which/who had been consulted by the Administration or had submitted views to the Administration on the relevant legislative proposals. The deadline for submissions would be 25 November 2004.

*(Post-meeting note: The list of organizations/individuals to be invited to give views on the Bill was circulated to members for information vide LC Paper No. CB(1)175/04-05 on 4 November 2004.)*

#### Meeting with deputations

5. The Bills Committee further agreed to meet with deputations and the Administration on Wednesday, 15 December 2004, from 8:30 am to 10:30 am.

**III. Any other business**

6. There being no other business, the meeting ended at 12:40 pm.

Council Business Division 1  
Legislative Council Secretariat  
30 November 2004

**Proceedings of the first meeting of the  
Bills Committee on Bankruptcy (Amendment) Bill 2004  
on Wednesday, 3 November 2004, at 10:45 am  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000213	Dr LUI Ming-wah Mr KWONG Chi-kin Miss TAM Heung-man	Election of Chairman	
000214-000405	Chairman	Welcoming and introductory remarks	
000406-001626	Administration	Briefing on the proposals in the Bill with the aid of powerpoint presentation	
001627-001938	Mr Albert HO	<p>(a) Whether the establishment of the Official Receiver's Office (ORO) would be down-sized after outsourcing summary bankruptcy cases to private-sector insolvency practitioners (PIPs)</p> <p>(b) Member's concern about the level of fees to be charged by PIPs for handling outsourced cases</p> <p>(c) The need for ORO to strengthen monitoring on the work of provisional trustees and trustees</p>	
001939-003850	Administration	(a) Re-deployment plans for existing staff engaged in	

Time marker	Speaker	Subject(s)	Action Required
		<p>administering summary bankruptcy cases after implementation of the outsourcing exercise</p> <p>(b) Administration's confirmation that it had no intention to down-size the establishment of ORO after the outsourcing exercise</p> <p>(c) Statutory and non-statutory means to ensure that trustees and provisional trustees would exercise the powers conferred upon them in handling bankruptcy cases in a reasonable and consistent manner</p> <p>(d) Design and operation of the tendering scheme for outsourcing summary bankruptcy cases to PIPs</p>	
003851-004830	Ms Miriam LAU Administration	<p>(a) Qualification criteria for PIPs to participate in the tendering scheme</p> <p>(b) Member's concern about the negative impact of PIPs' price-cutting strategy for bidding tenders of outsourced summary bankruptcy cases on the quality of service provided by PIPs</p> <p>(c) Benefits of the outsourcing proposal for creditors</p>	

Time marker	Speaker	Subject(s)	Action Required
004831-010110	Mr CHAN Kam-lam Administration	<ul style="list-style-type: none"> <li>(a) Merits of the outsourcing proposal in simplifying and streamlining the bankruptcy regime</li> <li>(b) Re-deployment plans for existing staff engaged in administrating summary bankruptcy cases after implementation of the outsourcing exercise</li> <li>(c) Impact of the outsourcing proposal on the manpower requirement of ORO</li> </ul>	
010111-010432	Mr KWONG Chi-kin Administration	<ul style="list-style-type: none"> <li>(a) Re-deployment plans for existing staff engaged in administering summary bankruptcy cases after implementation of the outsourcing exercise</li> <li>(b) Outcome of staff consultation on the outsourcing proposal</li> <li>(c) Member's concern about whether the outsourcing proposal would increase the level of fees charged under the bankruptcy regime</li> <li>(d) Administration's advice that concerned staff in ORO were aware of the outsourcing proposal and there was no plan to increase the level of fees charged under the</li> </ul>	



Time marker	Speaker	Subject(s)	Action Required
		bankruptcy regime for the moment	
010433-012538	Mr Albert HO Administration	<p>(a) Whether guidelines would be provided to PIPs for handling summary bankruptcy cases, such as those on interpretation of “reasonable domestic needs” of the bankrupt and his family, to ensure PIPs would properly discharge their duties and obligations</p> <p>(b) Power of PIPs in conducting investigations in handling bankruptcy cases</p>	
012539-012740	Mr Albert HO	Request for information papers on the tendering scheme for outsourcing summary bankruptcy cases to PIPs and monitoring of the performance of PIPs	Administration to provide the required information under paragraph 3(a), (b) and (c) of the minutes
012741-013614	Ms Miriam LAU Administration	<p>(a) Realization of the bankrupt’s assets and property</p> <p>(b) Different purposes for which the bankruptcy petition deposit might be used, such as remuneration for PIPs, and the handling of the balance of the deposit, if any</p>	
013615-013828	Administration Mr Albert HO Ms Miriam LAU	(a) Details of the papers to be provided by the Administration on the	Administration to provide the required information under

Time marker	Speaker	Subject(s)	Action Required
	Chairman	<p>tendering scheme and monitoring of the performance of PIPs</p> <p>(b) Request for inclusion of the interpretation of “reasonable domestic needs” of the bankrupt and his family by the court in the paper to be provided by the Administration</p>	paragraph 3(a), (b) and (c) of the minutes
013829-014206	Ms Miriam LAU Administration	Request for inclusion of handling of the balance of bankruptcy petition deposit in the paper to be provided by Administration	Administration to provide the required information under paragraph 3(b)(i) of the minutes
014207-014635	Chairman Clerk Ms Miriam LAU	<p>(a) Proposed arrangements for consulting the public and relevant organizations on the Bill (LC Paper No. CB(1)139/04-05)</p> <p>(b) Deadline for submissions and date for meeting with deputations and the Administration</p>	
014636-015024	Mr Albert HO Administration	Investigation by PIPs on bankrupt’s assets and recovery of costs incurred	Administration to provide the required information under paragraph 3(b)(iii) of the minutes