

For information
24 September 2007

Bills Committee on
Statute Law (Miscellaneous Provisions) Bill 2007

Amendments to the Bankruptcy Ordinance (Cap. 6)

Purpose

At the Bills Committee meeting on 7 June 2007, Members asked the Administration to –

- (a) re-consider the proposed deletion of section 30A(10)(b)(i) of the Bankruptcy Ordinance (BO) (Cap. 6); and
- (b) consider whether section 30A(10)(b)(ii) should also be amended in light of the proposed deletion of section 30A(10)(b)(i).

This paper sets out the Administration's response.

Background

2. The proposal to repeal section 30A(10)(b)(i) of the BO was included in the subject Bill following the Court of Final Appeal's (CFA) ruling on 20 July 2006 that section 30A(10)(b)(i) was unconstitutional on grounds of being unreasonably restrictive of the right to travel guaranteed under Article 31 of the Basic Law and Article 8(2) of the Hong Kong Bill of Rights. The effect of the CFA judgment is that section 30A(10)(b)(i) is considered void from the outset. The Administration considered it appropriate to repeal section 30A(10)(b)(i) to tidy up the statute book.

The Administration's Response

3. With thanks to Members for their suggestions, we confirm that the Administration is in the process of reviewing section 30A(10)(b)(ii) in light of the CFA judgment. Indeed, the Administration intends to review the "abscondee" regime as a whole (i.e. bankrupts who leave Hong Kong and cannot be contacted) under the BO, and consider whether there is a need to amend any other provision(s) in the BO.

4. Taking into account the policy content involved in such a review, and the fact that more time would be needed to study the issue and to conduct necessary research into relevant developments in other common law jurisdictions and consultations where appropriate, the Administration is of the view that it would not be appropriate or possible to include legislative amendments proposals with respect to the "abscondee" regime as a whole in the Statute Law (Miscellaneous Provisions) Bill 2007. Instead, proposed legislative amendments to the "abscondee" regime, if any, should be taken forward in a separate exercise.

5. We therefore propose to withdraw Part 2 of the Statute Law (Miscellaneous Provisions) Bill 2007 by moving a Committee Stage Amendment.

**Financial Services and the Treasury Bureau
September 2007**