

立法會
Legislative Council

LC Paper No. LS80/06-07

**Paper for the House Committee Meeting
on 1 June 2007**

**Legal Service Division Report on
Proposed Resolutions made under the Bankruptcy Ordinance (Cap. 6)**

**Bankruptcy (Forms) (Amendment) Rules 2007
Bankruptcy (Fees and Percentages) (Amendment) Order 2007
Proof of Debts (Amendment) Rules 2007**

The Secretary for the Financial Services and the Treasury has given notices to move four related motions at the Legislative Council meeting to be held on 13 June 2007. Three of the motions seek the Legislative Council's approval of the following made by the Chief Justice on 18 May 2007-

- (a) Bankruptcy (Forms) (Amendment) Rules 2007 made under section 113 of the Bankruptcy Ordinance (Cap. 6) (BO), amending the Bankruptcy (Forms) Rules (Cap. 6 sub. leg. B);
- (b) Bankruptcy (Fees and Percentages) (Amendment) Order 2007 made under section 114 of BO, amending the Bankruptcy (Fees and Percentages) Order (Cap. 6 sub. leg. C); and
- (c) Proof of Debts (Amendment) Rules 2007 made under section 36 of BO, amending the Proof of Debts Rules (Cap. 6 sub. leg. E).

A separate report, LS77/06-07, deals with the remaining motion on Bankruptcy (Amendment) Rules 2007.

2. The Amendment Rules and Order were made to implement the provisions of the Bankruptcy (Amendment) Ordinance 2005 (18 of 2005) (Amendment Ordinance), which was enacted on 6 July 2005. The Amendment Ordinance provides, *inter alia*, that the Official Receiver (OR) may outsource the administration of summary bankruptcy cases to private-sector insolvency practitioners if the value of the property of the bankrupt is unlikely to exceed \$200,000 and the said practitioners have the prescribed qualifications.

3. The Amendment Rules and Order seek to adjust the references to, and the respective powers and duties of OR, provisional trustee and trustee in the subsidiary legislation under the new outsourcing regime and to clarify that the fees upon presentation of a bankruptcy petition should include any fee on answering a petition or setting down for hearing.

4. The Amendment Rules and Order also seek to modernise and streamline certain provisions in the subsidiary legislation under the Bankruptcy Ordinance (Cap. 6) by removing references to the year "19" and to substitute the reference of "Supreme Court Ordinance" with "High Court Ordinance", etc.

5. According to paragraphs 8 and 9 of the LegCo Brief, the Administration has consulted various stakeholders on the draft provisions of the Amendment Rules and Order and taken on board the technical and drafting comments as appropriate. The Amendment Rules and Order do not apply to any case in which the bankruptcy petition was presented before the commencement day. The Amendment Rules and Order have not been submitted to the Financial Affairs Panel for discussion.

6. The Amendment Rules and Order shall come into operation on the day appointed for the commencement of the Amendment Ordinance, except sections 1, 12, 19 and 32, which have come into operation already. According to Note (2) of the LegCo Brief, the Administration intends to commence the relevant provisions of the Amendment Ordinance, Rules and Order within 2007, pending the completion of the preparatory work by the Official Receiver's Office for the new outsourcing regime.

7. Members may refer to the LegCo Brief issued by the Financial Services and the Treasury Bureau dated 23 May 2007 (File Ref. FSB/C11/21) for further information.

8. No difficulty in the legal or drafting aspects of the Amendment Rules and Order have been observed.

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