

BANKRUPTCY ORDINANCE

RESOLUTION

(Under section 113 of the Bankruptcy Ordinance (Cap. 6))

RESOLVED that the Bankruptcy (Forms) (Amendment) Rules 2007, made by the Chief Justice on 18 May 2007, be approved.

BANKRUPTCY (FORMS) (AMENDMENT) RULES 2007

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BANKRUPTCY (FORMS) (AMENDMENT) RULES 2007

(Made by the Chief Justice under section 113 of the
Bankruptcy Ordinance (Cap. 6) subject to the
approval of the Legislative Council)

1. Commencement

These Rules shall come into operation on the day appointed for the commencement of the Bankruptcy (Amendment) Ordinance 2005 (18 of 2005) (except sections 1, 12, 19 and 32 of that Ordinance).

2. Forms

The Schedule to the Bankruptcy (Forms) Rules (Cap. 6 sub. leg. B) is amended -

(a) in the Index of Forms -

- (i) in the English text, under the heading "**Bankruptcy Order:**", by repealing "paper" and substituting "newspaper";
- (ii) by repealing "**Interim receiver:**" and substituting "**Interim trustee:**";
- (iii) under the heading "**Public examination:**" -
 - (A) by adding "or trustee" after "Official Receiver";
 - (B) in the English text, by repealing "paper" and

substituting "newspaper";

(b) in Form 13 -

(i) in the heading, by repealing

"RECEIVER" and substituting "TRUSTEE";

(ii) by repealing "receiver" where it

twice appears and substituting

"trustee";

(iii) by repealing "receiver" and

substituting "*interim trustee*";

(c) in Form 19, by repealing "one thousand nine hundred";

(d) in Form 25 -

(i) by repealing "[s. 5; rules 69, 75]"

and substituting "[s. 12; rule

72A(3)]";

(ii) by repealing "is hereby constituted

receiver" and substituting "hereby

becomes the provisional trustee";

(iii) in the Note -

(A) by repealing "*immediately*";

(B) by repealing everything after

"*attend the*" and substituting

"*trustee at such time and place*

as the trustee may specify.";

(e) in Form 26 -

(i) by repealing "[s. 5" and substituting

"[ss. 12, 72A(3)";

(ii) by repealing "is hereby constituted receiver" and substituting "hereby becomes the provisional trustee";

(iii) in the Note -

(A) by repealing "*immediately*";

(B) by repealing everything after "*attend the*" and substituting "*trustee at such time and place as the trustee may specify.*";

(f) in Form 27 -

(i) by repealing "[ss. 22(2), 78(1)(f)" and substituting "[s. 78(1)(f)";

(ii) in the Note, by repealing "me" and substituting "the trustee";

(g) in Form 28A, by repealing the year reference of "19";

(h) in Form 28B, by repealing the year reference of "19";

(i) in Form 29 -

(i) by repealing "[Official Receiver]" and substituting "[provisional trustee]";

(ii) by repealing "Official Receiver/" and substituting "Provisional trustee/";

(j) in Form 32 -

- (i) by repealing “; rule 102”;
 - (ii) by repealing “at the Official Receiver’s Office was” and substituting “at _____ was”;
 - (iii) by repealing “at the Official Receiver’s Office, _____ (state address) on” and substituting “at _____ on”;
 - (iv) by repealing “*Official Receiver*” and substituting “*Trustee*”;
- (k) in Form 33, by repealing “a clerk in the office of the Official Receiver” and substituting “[insert description]”;
- (l) in Form 34 -
- (i) by repealing “a clerk in the office of the Official Receiver” and substituting “[insert description]”;
 - (ii) by repealing “*Clerk to the Official Receiver.*” and substituting “(Signature)”;
- (m) in Form 35 -
- (i) by repealing “at the Official Receiver’s Office, _____ (state address) and” and substituting “at _____ and”;
 - (ii) by repealing “*Official Receiver*” and

substituting "*Provisional trustee*";

(n) in Form 39 -

(i) by repealing "[s. 17; rules 10," and

substituting "[s. 17B; rule";

(ii) by repealing "Official Receiver" and

substituting "provisional trustee";

(o) in Form 40 -

(i) by repealing "101]" and substituting

"99E]";

(ii) by repealing "(Signed) (a)" and

substituting "Trustee.";

(iii) in the margin, by repealing note (a);

(p) in Form 43, by repealing "102]" and

substituting "99E]";

(q) in Form 44, by repealing "102]" and

substituting "99E]";

(r) in Form 46A -

(i) in column 2 opposite to item 4, by
repealing "Official Receiver or";

(ii) by repealing "Official Receiver/";

(iii) by repealing "**Official Receiver or,
if a trustee has been appointed, to
the**";

(iv) in the Note, by repealing "Official
Receiver" and substituting "trustee";

(s) in Form 46B, by repealing "**Official Receiver or,**

if a trustee has been appointed, to the”;

(t) in Form 47, by repealing -

“*Official Receiver*

or”

where it twice appears;

(u) in Form 49 -

(i) by repealing “Official Receiver [or trustee]” and substituting “the trustee”;

(ii) by repealing -

“*Official Receiver*

or”;

(v) in Form 50 -

(i) by repealing “[s. 78(1)(d); rule 119]” and substituting “[s. 86B(1)(c)]”;

(ii) by repealing “*or the Official Receiver*”;

(iii) by repealing “the Official Receiver or trustee” and substituting “the trustee”;

(iv) in the margin -

(A) in note (b), by repealing “Official Receiver” and substituting “trustee”;

(B) in note (f), by repealing

"Official Receiver" and
substituting "trustee";

(C) in note (g), by repealing
"Official Receiver or";

(w) in Form 51 -

(i) by repealing "[s. 78(1)(d); rule
119]" and substituting "[s.
86B(1)(c)]";

(ii) in the Notes, in paragraph 1(c), in
the English text, by repealing
"arising any specified meeting" and
substituting *"arising from any
specified meeting"*;

(iii) by repealing *"or the Official
Receiver"*;

(iv) by repealing "the Official Receiver
or trustee" and substituting "the
trustee";

(v) in the margin -

(A) in note (b), by repealing
"Official Receiver" and
substituting "trustee";

(B) in note (f), by repealing
"Official Receiver or";

(x) in Form 52 -

(i) in the heading, by adding "OR

TRUSTEE" after "RECEIVER";

(ii) by adding "or trustee" after
"Receiver";

(iii) by repealing -
"Official Receiver."

and substituting -

"Official Receiver
or Trustee.";

(y) in Form 53 -

(i) by adding "or Trustee" after
"Receiver";

(ii) in the English text, by repealing
"WARING" and substituting "WARNING";

(z) in Form 54 -

(i) in the heading, in the English text,
by repealing "PAPER" and substituting
"NEWSPAPER";

(ii) by repealing -
"Official Receiver."

and substituting -

"Official Receiver
or Trustee.";

(za) in Form 55, by adding "or trustee" after
"Receiver";

(zb) in Form 59, by adding "or trustee" after
"Receiver";

(zc) in Form 62 -

- (i) by repealing "19(8)]" and substituting "19]";
- (ii) by repealing "Official Receiver or the";

(zd) in Form 79 -

- (i) by repealing "[rule" and substituting "[s. 33; rule";
- (ii) by adding "/trustee (a)" after "Receiver";
- (iii) in the margin opposite to the first paragraph, by adding -

"(a) Delete as appropriate.";

(ze) in Form 80 -

- (i) by adding "/trustee (a)" after "Receiver";
- (ii) in the margin opposite to the first paragraph, by adding -

"(a) Delete as appropriate.";

(zf) in Form 96 -

- (i) by repealing "[the trustee of the property of the said bankrupt]" and substituting "/the trustee of the property of the said bankrupt (a)";
- (ii) in the margin opposite to the first paragraph, by adding -

"(a) Delete as appropriate." ;

(zg) in Form 112, in the Note, by repealing

"Receiver," and substituting "Receiver or trustee," ;

(zh) by repealing Form 137 and substituting -

"FORM 137

[s. 94;
rule 169]

STATEMENT TO ACCOMPANY APPLICATION FOR RELEASE

(Title.)

Statement showing the position of estate at the date
of application for release

	\$	\$
Receipts		
Cash found		
Bank balance		
Refund of utility deposits		
Receipts for termination of insurance policies		
Proceeds from Court		
Proceeds of sale		
Book debts collected		
Payment by debtor/bankrupt		
Others		
NET REALIZATIONS		
Money paid by third party		
Less: Refund		
Petitioner's deposit		
Less: Refund		
Distrainment money		
Less: Refund		
Payments		
Petitioner's taxed costs		
Court fees and taxing fees		
Gazetting and advertising		

	charges		
	Travelling expenses and transportation charges		
	Professional fees		
	Photocopying charges		
	Official Receiver's fees		
	Trustee's remuneration		
	Distribution to creditors		
	Preferential payment	_____	%
	Deferred preferential payment	_____	%
	Ordinary dividend (a)	_____	%
	Deferred ordinary dividend	_____	%
	Storage charges		
	Others		

	Balance		_____

(a) First or final or as the case may be. If more than one payment was made, state each payment separately.

NOTES: 1. There are no further assets to be realized and no further payments to be made to creditors.

(b) Insert number of creditors.

2. Creditors - _____ (b) preferential creditors \$
 _____ (b) ordinary creditors \$ _____
 \$ _____

3. Creditors can obtain any further information by enquiry at the office of the trustee (add here the trustee's address, contact telephone number and contact person).

Dated this _____ day of _____ .

Trustee." ;

(zi) in Form 142, by repealing "Supreme" and substituting "High";

(zj) by repealing the year references of ", 19" and "19" wherever they appear.

3. Transitional and savings provisions

(1) Notwithstanding anything contained in these Rules, the amendments effected under these Rules shall not apply to any case in which the bankruptcy petition was presented before the commencement date, and such case shall continue and be disposed of as if these Rules had not been made.

(2) This section is in addition to and not in derogation of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1).

(3) For the purpose of this section, "commencement date" (生效日期) means the day appointed for the commencement of the Bankruptcy (Amendment) Ordinance 2005 (18 of 2005) (except sections 1, 12, 19 and 32 of that Ordinance).

Chief Justice

2007

Explanatory Note

The purposes of these Rules are to make amendments to the Bankruptcy (Forms) Rules (Cap. 6 sub. leg. B) ("principal Rules") to -

- (a) adjust the respective powers and duties of the Official Receiver, provisional trustee and trustee in bankruptcy cases as reflected in the various forms, consequential to the enactment of the Bankruptcy (Amendment) Ordinance 2005 (18 of 2005);
- (b) update Form 137 of the principal Rules to reflect current practice;
- (c) substitute the reference of "High Court Ordinance" for "Supreme Court Ordinance" in Form 142 of the principal Rules; and
- (d) remove references to the year "19" (however expressed) in the forms of the principal Rules.