

Common Requisitions – Bankruptcy

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1. Self Bankruptcy Petition (Represented)

(I) The Bankruptcy Petition	
1.	Identity card number / occupation / current residential address of the Petitioner should be provided. Please clarify / amend the English / Chinese address.
2.	If the Petitioner has carried on / lately carried on business, please state the business name, nature and address.
3.	Petition should be attested by a solicitor or the Official Receiver (e.g. "signed by (name of Petitioner) in the presence of (name of solicitor)")
4.	The identity of the person attesting the signing of the Petition should be provided.
(II) The Statement of Affairs (Form 28C)	
5.	Petitioner's Identity card number / occupation / current residential address should be provided. Please clarify the English / Chinese address.
6.	The prescribed Form 28C should be used and completed accordingly. (re: List(s) _____)
List A: Secured Creditors	
7.	As the security is jointly owned, please state your share in the security.
8.	Since the security has been sold, the balance of the debt should be listed under List B.
List B: Unsecured Creditors	
9.	If full details of creditors (name / address) cannot be provided, please state by way of affirmation / affidavit the attempts taken to ascertain / locate the name or address of the creditors. (Column 2 / 3, item no. _____)
List C1: Assets (Section 1: Bank Account)	
10.	Bank account number / balance / share / name of the joint holder of the bank account should be provided.
11.	Time deposit account should be placed under Section 3.
12.	Did the Petitioner have any bank account in the past 6 months prior to the presentation of the Petition (see SS.50 & 51)? (a) If no, a verifying affirmation / affidavit should be filed and served upon the Official Receiver. (b) If yes, List C1 should be amended to state the particulars of the account.
List C1: Assets (Section 2: Business Bank Account)	
13.	Is the account with _____ a business bank account? (a) If no, the particulars of the account should be placed under Section 1. (b) If yes, <input type="checkbox"/> please provide the name under which the business bank account is held.

	<input type="checkbox"/> please apply for leave to amend the Petition to state the business name, nature and address.
List C2: Assets	
14.	Please clarify the answer to Section 2 / Section 3 in the light of List A.
List C3: Assets	
15.	The insurance policy number / surrender value / name of the beneficiary should be provided. (re: item b)
16.	Name / address of the borrower and amount due should be provided. (re: item c)
17.	The number of shares of the limited company held by the Petitioner and the value thereof should be provided. (re: item e)
18.	Please specify the contents of the safety box and their estimated value. (re: item e)
19.	Name of trustee, account number and the balance maintained with the following should be provided: <input type="checkbox"/> Hong Kong Jockey Club <input type="checkbox"/> Provident fund trustee <input type="checkbox"/> MPF trustee
20.	Particulars of the property in List A should be stated under item e.
List D	
21.	The name / age (if under 18) of and relationship with the dependents should be provided. (re: Section 1)
22.	Full details of the creditor and property should be stated in List A / List B. (re: Section 2)
List E	
23.	Full details of the creditor / amount of debt / property should be stated in List A / List B. (re: Section 3)
24.	Maintenance Order made by the Family Court should be placed under Section 3 of List E (with particulars as required thereunder). (re: Section 4)
List H: Statement of recent and expected income	
25.	Drawings from business if self-employed: Has the Petitioner been carrying on business lately? If yes, please apply for leave to amend the Petition to state the business name, nature and address.
26.	The disposal of the lump sum received (HK\$ _____) should be explained in detail by way of affirmation / affidavit. Please produce the bank statement showing the deposit of the said sum; the withdrawals thereafter; and the current balance.
27.	Total amount of assets are greater than total amount of liabilities. Please clarify and explain why the Petitioner is unable to pay the debts.

Others	
28.	The Court was informed that the Petitioner died on _____. S.103 of Cap.6 is referred to and the Official Receiver is respectfully requested to look into the matter and inform the Court of her views.
28.	Solicitors should consider applying for leave to amend the Petition. The Amended Petition be re-signed, re-attested, with date of re-attestation to be typed in black without any underlining in red. The original date, attestation clause and the filing date of the Petition do remain intact in black. Re-filing date be marked at the back sheet without any underlining in red.
30.	Solicitors should consider applying for leave to file and serve on the Official Receiver a Supplemental Affirmation / Affidavit.

2. Self Bankruptcy Petition (Unrepresented)

(I) The Bankruptcy Petition	
1.	Identity card number / occupation / current residential address of the Petitioner should be provided. Please clarify / amend the English / Chinese address.
2.	If the Petitioner has carried on / lately carried on business, please state the business name, nature and address.
3.	Petition should be attested by a solicitor or the Official Receiver (e.g. "signed by (name of Petitioner) in the presence of (name of solicitor)")
4.	The identity of the person attesting the signing of the Petition should be provided.
(II) The Statement of Affairs (Form 28C)	
5.	Petitioner's identity card number / occupation / current residential address should be provided. Please clarify the English / Chinese address.
6.	The prescribed Form 28C should be used and completed accordingly. (re: List(s) _____)
List A: Secured Creditors	
7.	As the security is jointly owned, please state your share in the security.
8.	Since the security has been sold, the balance of the debt should be listed under List B.
List B: Unsecured Creditors	
9.	If full details of creditors (name / address) cannot be provided, please state by way of affirmation / affidavit the attempts taken to ascertain / locate the name or address of the creditors. (Column 2 / 3, item no. _____)
List C1: Assets (Section 1: Bank Account)	
10.	Bank account number / balance / share / name of the joint holder of the bank account should be provided.
11.	Time deposit account should be placed under Section 3.
12.	Did the Petitioner have any bank account in the past 6 months prior to the presentation of the Petition? (a) If no, a verifying affirmation / affidavit should be filed and served upon the Official Receiver. (b) If yes, List C1 should be amended to state the particulars of the account.
List C1: Assets (Section 2: Business Bank Account)	
13.	Is the account with _____ a business bank account? (a) If no, the particulars of the account should be placed under Section 1. (b) If yes, <input type="checkbox"/> please provide the name under which the business bank account is held. <input type="checkbox"/> steps should be taken to amend the Petition to state the business name, nature and address.
List C2: Assets	

14.	Please clarify the answer to Section 2 / Section 3 in light of List A.
List C3: Assets	
15.	The insurance policy number / surrender value / name of the beneficiary should be provided (re: item b).
16.	Name / address of the borrower and amount due should be provided. (re: item c)
17.	The number of shares of the limited company held by the Petitioner and the value thereof should be provided. (re: item e)
18.	Please specify the contents of the safety box and their estimated value. (re: item e)
19.	Name of trustee, account number and the balance maintained with the following should be provided: <input type="checkbox"/> Hong Kong Jockey Club <input type="checkbox"/> Provident fund trustee <input type="checkbox"/> MPF trustee
20.	Particulars of the property in List A should be stated under item e.
List D	
21.	The name / age (if under 18) of and relationship with the dependents should be provided.(re: Section 1)
22.	Full details of the creditor and property should be stated in List A / List B. (re: Section 2)
List E	
23.	Full details of the creditor / amount of debt / property should be stated in List A / List B. (re: Section 3)
24.	Maintenance Order made by the Family Court should be placed under Section 3 of List E (with particulars as required thereunder). (re: Section 4)
List H: Statement of recent and expected income	
25.	Drawings from business if self-employed: Has the Petitioner been carrying on business lately? If yes, steps should be taken to amend the Petition to state the business name, nature and address.
26.	The disposal of the lump sum received (HK\$_____) should be explained in detail by way of affirmation / affidavit. Please produce the bank statement showing the deposit of the said sum; the withdrawals thereafter; and the current balance.
27.	Total amount of assets are greater than total amount of liabilities. Please clarify and explain why the Petitioner is unable to pay the debts.
Others	
28.	The Court was informed that the Petitioner died on _____. S.103 of Cap.6 is referred to and the Official Receiver is respectfully requested to look into the matter and inform the Court her views.

3. Application for Leave to file Petition

Section A – Leave	
1.	The process server should state how he came to identify the debtor (Para _____ of affirmation of _____ and P.D. 3.1 Part I para 1.4).
2.	If Petitioner is relying on R46 (3) of Cap 6A alone for service of Statutory Demand by advertisement, leave to file the Petition is not required. However, in due course, the Petitioner has to satisfy the Court the due compliance of R46 (3) and 49(8) of Cap 6A.
3.	Statutory demand was personally served on the debtor, leave is therefore not required. Please file certificate signed by the handling solicitor and proceed to file the Petition in High Court Registry. Please also comply with Rule 49 (3)
Section B – Statutory Demand	
4.	Please explain why the Petitioner can still rely on the Statutory Demand which was served more than 12 months ago.
5.	Since the sole address for service of the Statutory Demand is outside Hong Kong, 21 days should be added to the respective time limits referred to in the demand wherever they appear (PD 3.1 Part I para 2.3).
6.	The Statutory Demand contains the following mistakes. Please explain why it is still good / effective and need not be re-done. _____ _____ _____
Section C – Advertisement	
7.	The 18-day time limit for setting aside the Statutory Demand was left out in the advertisement (P.D. 3.1 Part I para 2.4). Please submit why re-advertisement is not necessary.
8.	The Advertisement contains the following mistakes. Please explain why it is still good / effective and need not be re-done. _____ _____ _____
Section D – Draft Petition	
9.	Bankruptcy Petition to be lodged together with this application for leave to file Petition.
10.	Subject to your advice to your client, the Court has the following observation(s) on the draft Petition submitted. _____ _____ _____

Section E (1) – Steps taken by the Petitioner (Service of SD under rule 46(2) and para. 2.1 (c) of PD 3.1)	
11.	Another visit to _____ preceded by appointment letter outside working hours (usually before 7:30 am or after 7:30 pm) is necessary (Para _____ of affirmation of _____ and P.D. 3.1 Part I para 3.2(b)).
12.	Another visit to _____ preceded by appointment letter within working hours (usually between 9 am and 6 pm) is necessary (Para _____ of affirmation of _____ and P.D. 3.1 Part I para 3.2(b)).
13.	<p>The appointment letter failed to comply with P.D.3.1 Part I para 3.2(d) in that</p> <p><input type="checkbox"/> it was not sent to the debtor by prepaid ordinary post;</p> <p><input type="checkbox"/> it gave less than 2 business days' notice; and / or</p> <p><input type="checkbox"/> opportunity of making a different appointment not offered</p>
14.	A copy of the statutory demand should be enclosed with the appointment letter.
15.	Please confirm if the appointment letter(s) has / have been returned or not; (P.D. 3.1 Part I para 3.2(h) (ii) refers).
16.	The appointment letter failed to comply with P.D. 3.1 Part I para 3.2(e) fully, namely the statement “if the debtor fails to keep the appointment, the creditor proposes to serve the debtor by post and by advertisement and that in the event of a bankruptcy petition being presented, the Court will be asked to treat such service as service of the Statutory Demand on the debtor” was omitted. Please submit why another appointment letter with a fresh visit is not necessary.
17.	Has any enquiry been made with occupier _____ about the debtor (Para _____ of affirmation of _____).
18.	Has any enquiry been made with _____ (the occupier) as to whether the debtor has received the appointment letter and the debtor's whereabouts (P.D. 3.1 Part I para 3.2(f)).
19.	Whether the Petitioner has knowledge of any other address(es) of the debtor for which service of the documents could be effected (P.D. 3.1 Part I para 3.2(h) (i)).
20.	Any information / knowledge on the part of the Petitioner that the debtor has left the jurisdiction (P.D. 3.1 Part I para 3.2(h) (i)).
21.	If it is believed that the debtor is within jurisdiction, please state the grounds for such belief that the debtor was within jurisdiction at the time of the attempted service of the statutory demand and advertisement (Para _____ of affirmation of _____ and P.D. 3.1 Part I para 3.2(h) (iii)).
22.	Specify a date by which, to the best of the knowledge, information and belief of the person making the affidavit, the demand will have come to the debtor's attention. (If applicable please follow the wordings of R49 (5) (c) of Cap 6A).

23.	Please clarify the type of premises in respect of the _____ address, e.g. residential, commercial, industrial (Para _____ of Affirmation of _____).
24.	Please clarify the time / date of visit (_____ or _____ as stated in the appointment letter (Para _____ of Affirmation of _____).
Section E (2) – Steps taken by the Petitioner (Service of SD under rule 46(2) and para. 2.1 (b) of PD 3.1(Electronic Means))	
25.	Service of the SD cannot be done by “Electronic Means” because neither of the pre-conditions under para. 2.1(b) of PD3.1 is satisfied, namely: (a) The Debtor has agreed with the Petitioner to use any electronic means to receive documents relating to the debt under the subject SD, or (b) The Debtor has during 12 months immediately preceding the date of the SD used any electronic means to communicate with the Petitioner.
Section F – Whereabouts of the Debtor	
26.	Is the Petitioner aware of any relationship between the debtor and _____? (Para _____ of affirmation of _____ refers) Has any (updated) company search / business registration search been conducted to ascertain the whereabouts of the debtor?
27.	Has enquiry been made with the Provisional Liquidators / Liquidators of _____ if they have any other means to locate the debtor? (Para _____ of affirmation of _____).
28.	As the debtor is a member of a profession, namely, _____. Has any enquiry or search been made with the relevant professional organization to explore the whereabouts of the debtor?
Section G – Others	
29.	Irrelevant facts under r.46 (3) of Cap.6A has been included in the application (Para _____ of affirmation of _____) because no leave to issue Petition is required if such sub-rule is relied upon. The deponent / drafter of the said affirmation and the solicitor-in-charge of the application should pay attention to the same in future, or unnecessary time and effort will be spent by the Court, resulting in delay of granting leave to issue Petition.

4. Application for Substituted Service of Petition

1.	Another visit to _____ preceded by appointment letter outside working hours (usually before 7:30 am or after 7:30 pm) is necessary (Para _____ of folio _____ and P.D. 3.1 Part I para 3.2(b)).
2.	Another visit to _____ preceded by appointment letter within working hours (usually between 9 am and 6 pm) is necessary (Para _____ of folio _____ and P.D. 3.1 Part I para 3.2(b)).
3.	Has any enquiry been made with occupier _____ about the debtor (Para _____ of folio _____).
4.	Has any enquiry been made with _____ (the occupier) as to whether the debtor has received the appointment letter and the debtor's whereabouts. (P.D. 3.1 Part I para 3.2 (f))
5.	The appointment letter failed to comply with P.D.3.1 Part I para 3.2(d) in that <input type="checkbox"/> it was not sent to the debtor by prepaid ordinary post; <input type="checkbox"/> it gave less than 2 business days' notice; <input type="checkbox"/> copy petition not enclosed; and / or <input type="checkbox"/> opportunity of making a different appointment not offered.
6.	Please confirm if the appointment letter(s) has / have been returned or not. (P.D. 3.1 Part I para 3.2(h)(ii))
7.	The appointment letter failed to comply with P.D. 3.1 Part I para 3.2(e) fully, namely the statement "... if the debtor fails to keep the appointment, the creditor will apply to the Court for an order for substituted service either by advertisement, or in such other manner as the Court may think fit..." was incompletely stated. (Para _____ of folio _____) Please arrange another visit preceded by a proper appointment letter.
8.	Whether the Petitioner has knowledge of any other address(es) of the debtor for which service of the documents could be effected. (P.D. 3.1 Part I para 3.2(h)(i))
9.	Any information / knowledge on the part of the petitioner that the debtor has left the jurisdiction. (P.D. 3.1 Part I para 3.2(h)(i))
10.	If it is believed that the debtor is within jurisdiction, please state the grounds for such belief that the debtor was within jurisdiction. (Para _____ of folio _____ and P.D. 3.1 Part I para 3.2(h)(iv))
11.	Please state whether it is believed that the advertisement will probably bring the Petition to the knowledge of the debtor. (P.D. 3.1 Part I para. 3.2(h)(v))
12.	Is the Petitioner aware of any relationship between the debtor and _____? (Para _____ of folio _____)

13.	Has any (updated) company search / business registration search been conducted to ascertain the whereabouts of the debtor?
14.	Has enquiry been made with the Provisional Liquidators / Liquidators of _____ if they have any other means to locate the debtor? (Para _____ of folio _____)
15.	As the debtor is a member of a profession, namely, _____; has any enquiry or search been made with the relevant professional organization to explore the whereabouts of the debtor?
16.	Please clarify the type of premises in respect of the _____ address, e.g. residential, commercial, industrial. (Para. _____ of folio _____)
17.	Please clarify the time / date of visit (_____ or _____ as stated in the appointment letter. (Para. _____ of folio _____)
18.	Please submit draft order for Court's approval.
19.	Solicitors are reminded to submit affirmation verifying the petition. (See r.56)
20.	The Petitioner's residential address / registered office / principle place of business must be stated in the Petition. Submit why application for amendment of petition is not necessary. (See r.50)

5. Application for Summary Procedure Order (Self Petition)

General	
1.	Provisional trustees to clarify the case number / date of the Bankruptcy Order / name of the bankrupt / ID card number of the bankrupt / Bankruptcy Order not filed yet
The Report	
2.	The Report must be signed by the Provisional Trustee.
3.	Please clarify who signed the Report.
Appointment of Provisional Trustee	
4.	The OR has not filed the appointment letter / the appointment letter filed is not for this case. Please liaise with the OR to file the same / the correct one.
5.	Please clarify who were appointed as the joint and several provisional trustees (paragraph _____ of the Report refers).
6.	Provisional trustees should state when they were appointed as joint and several provisional trustees.
Terms of Order	
7.	<p>Provisional trustees to properly set out the terms of the order sought:</p> <p><input type="checkbox"/> the first meeting of creditors shall be dispensed with.</p> <p><input type="checkbox"/> the provisional trustee / _____ and _____ shall be the trustee / joint and several trustees of the property of the Bankrupt; and</p> <p><input type="checkbox"/> there shall be no creditors' committee, and the trustee / joint and several trustees may do all things which may be done by a trustee with the permission of a creditors' committee.</p>

6. Application for Summary Procedure Order (Creditor's Petition)

General	
1.	Provisional trustees to clarify the case number / date of the Bankruptcy Order / name of the bankrupt / ID card number of the bankrupt / Bankruptcy Order not filed yet
The Report	
2.	The Report must be signed by the Provisional Trustee.
3.	Please clarify who signed the Report.
Appointment of Provisional Trustee	
4.	The OR has not filed the appointment letter / the appointment letter filed is not for this case. Please liaise with the OR to file the same / the correct one.
5.	Please clarify who were appointed as the joint and several provisional trustees (paragraph _____ of the Report refers).
6.	Provisional trustees should state when they were appointed as joint and several provisional trustees.
Preliminary Investigation and Outcome (No Statement of Affairs ("SOA") / Unable to locate the Bankrupt)	
7.	Has any inquiry been made with banks as to whether the bankrupt maintains any bank account?
8.	Has any search been conducted at the Land Registry / Transport Department as to whether the bankrupt holds any asset of value?
Terms of Order	
9.	Provisional trustees to properly set out the terms of the order sought: <input type="checkbox"/> the first meeting of creditors shall be dispensed with. <input type="checkbox"/> the provisional trustee / _____ and _____ shall be the trustee / joint and several trustees of the property of the Bankrupt; and <input type="checkbox"/> there shall be no creditors' committee, and the trustee / joint and several trustees may do all things which may be done by a trustee with the permission of a creditors' committee.

7. Application for Petitioner's Costs (Bankruptcy)

1.	Please quote the relevant costs order.
2.	Please submit skeleton bill (<u>of not more than 2 pages</u>) to the Court for consideration.
3.	Please identify who is / are the fee earners, and state the year of admission and hourly rate of the fee earners concerned.
4.	Please state the total time spent by each fee earners on the work done as stated in the skeleton bill.
5.	Please identify the Joint and Several Provisional Trustees / Trustees who signed on the application.
6.	Please submit why the taxing fee is not HK\$_____ (_____ x 6%) (See High Court Fees Rules – 1 st Schedule, para 19)
7.	Please submit why taxing fee is not provided for? Only taxed costs can enjoy priority of payment pursuant to s. 37(1), Cap 6.
8.	<p>Please provide / clarify the breakdowns of profit costs, disbursement and taxing fee. Please also consider adopting the following format of order made by the Court:</p> <p>“The Petitioner’s costs and disbursement of the bankruptcy proceedings herein (a copy of the skeleton bill is annexed hereto) be recorded as taxed and allowed on a party and party basis at HK\$_____ of which HK\$_____ being the profit costs, HK\$ _____ being the disbursement inclusive of the Petitioner’s deposit and HK\$ _____ being the taxing fee.”</p>

8. Application for Release of Trustees

1.	Has R.169 been complied with? Have the Official Receiver / Bankrupt / creditor(s) been sent a notice of Trustees' intended application for release and a notice of a summary of receipts & payments? Please produce copy of the same.
2.	Please confirm that you, the Trustees are not aware of any objection to the release by the Official Receiver / Bankrupt / creditor(s).
3.	As the Official Receiver / Trustees is / are also seeking for an order that the books, papers and documents of the Bankrupt, Official Receiver & Trustees are to be sold, destroyed or otherwise disposed of, the Court directs that a notice of such application be given to the Official Receiver / Bankrupt / creditor(s). Thereafter, please confirm whether there is any objection received from the Official Receiver / Bankrupt / creditor(s) or not.
4.	Please explain why no stamp fee is payable. [Item 14, Table A of the schedule, Bankruptcy (Fees & Percentages) Order refers]
5.	Please explain how the stamp fee of \$ _____ is arrived at.
6.	Have the Trustees complied with S.93 (4), Cap.6?
7.	The Trustees shall file an affidavit verifying up-to-date account of their receipts and payments as such trustees for the period of _____ or to confirm the Court that there was no such receipt and payment after _____.