
Bankruptcy and Companies Legislation (Miscellaneous Amendments) Ordinance 2023

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HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 22 OF 2023



John KC LEE
Chief Executive
20 July 2023

An Ordinance to amend the Bankruptcy Ordinance and the Companies (Winding Up and Miscellaneous Provisions) Ordinance and their subsidiary legislation to facilitate the submission of certain documents to the Official Receiver by electronic means, to change the publication requirements for various notices, and to facilitate the sending of proxies by electronic means; and to make other miscellaneous amendments to those enactments and a related enactment.

[21 July 2023]

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Bankruptcy and Companies Legislation (Miscellaneous Amendments) Ordinance 2023.

Bankruptcy and Companies Legislation (Miscellaneous Amendments)
Ordinance 2023

Part 1
Section 2

Ord. No. 22 of 2023
A2555

- (2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.
- (3) Parts 2 and 3 come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.

2. Enactments amended

The enactments specified in Parts 2 to 5 are amended as set out in those Parts.

Part 2

Amendments relating to Submission of Documents by Electronic Means

Division 1—Amendments to Bankruptcy Ordinance (Cap. 6)

3. **Section 2 amended (interpretation)**

(1) Section 2, definition of *prescribed*, before “means”—

Add

“, except in section 122C,”.

(2) Section 2—

Add in alphabetical order

“*specified form* (指明格式) means a form specified under section 122A;”.

4. **Section 43A amended (after-acquired property)**

After section 43A(6)—

Add

“(6A) For the purposes of subsection (6), if the trustee is the Official Receiver, the statement must be in the specified form.”.

5. **Section 86A amended (duties of trustee as regards the bankrupt’s conduct)**

After section 86A(2)—

Add

“(3) The report mentioned in subsection (2)(a) must be in the specified form.”.

6. Section 89 amended (annual statement of proceedings)

(1) Section 89, heading—

Repeal

“Annual statement”

Substitute

“Statement”.

(2) Section 89(1)—

Repeal

“, containing the prescribed particulars and made out in the prescribed form”.

(3) After section 89(1)—

Add

“(1A) The Official Receiver may at any time during the continuance of a bankruptcy require a trustee in the bankruptcy to provide the Official Receiver, within the time limit specified by the Official Receiver, with a statement showing the proceedings in the bankruptcy up to a date specified by the Official Receiver.

(1B) If a requirement is made under subsection (1A), the trustee must provide the statement within the time limit specified by the Official Receiver.

(1C) A statement required to be provided under subsection (1) or (1A) must be in the specified form.”.

7. Section 93 amended (audit of trustee’s accounts)

(1) Section 93—

Repeal subsection (2)

Substitute

“(2) The account must be in the specified form.”.

(2) Section 93—

Repeal subsection (4)

Substitute

“(4) When the account has been audited, the trustee must deliver a copy of the account to each of the specified entities for filing.

(4AA) If the Official Receiver decides that the account need not be audited, the trustee must, as soon as practicable after the decision, deliver a copy of the account to each of the specified entities for filing.

(4AAB) If a copy of the account is delivered by the trustee to a specified entity under subsection (4) or (4AA), the entity—

(a) must keep the copy of the account so delivered to the entity in the manner that the entity thinks fit; and

(b) must cause the copy of the account so kept by the entity to be open on payment of the prescribed fee to the inspection of any creditor, the bankrupt or any person interested, in the manner that the entity thinks fit.”.

(3) Section 93(4A)—

Repeal

everything after “to be audited,”

Substitute

“and in that event—

(a) the trustee must deliver a copy of the audited account to each of the specified entities for filing;

- (b) a specified entity must keep the copy of the audited account so delivered to the entity in the manner that the entity thinks fit; and
- (c) a specified entity must cause the copy of the audited account so kept by the entity to be open on payment of the prescribed fee to the inspection of any creditor, the bankrupt or any person interested, in the manner that the entity thinks fit.”.

(4) After section 93(5)—

Add

“(6) In this section—

specified entity (指明單位) means—

- (a) the Official Receiver; or
- (b) the court.”.

8. Sections 122A, 122B and 122C added

After section 122—

Add

“122A. Official Receiver may specify forms

- (1) The Official Receiver may specify a form for use in relation to any purpose of this Ordinance.
- (2) A form specified under subsection (1) for use in relation to a purpose may contain a requirement for the provision of any particulars ancillary or incidental to that purpose.
- (3) Despite subsection (1), the Official Receiver may not specify a form for use in relation to a purpose if—
 - (a) this Ordinance provides otherwise;

- (b) this Ordinance requires, or provides for, the use of a prescribed form (whether or not a form is prescribed) for that purpose; or
 - (c) a form is prescribed for that purpose.
- (4) In exercising, as regards any purpose of this Ordinance, the power conferred under subsection (1), the Official Receiver may, if the Official Receiver thinks fit, specify more than one form to be used in relation to that purpose, whether as alternatives or to provide for different circumstances.

122B. Official Receiver may specify requirements relating to documents

- (1) The Official Receiver may, in relation to any document required or authorized to be sent to the Official Receiver under this Ordinance—
- (a) specify requirements for the purpose of enabling the Official Receiver to make copies or image records of the document and to keep records of the information contained in it;
 - (b) specify requirements as to the authentication of the document; and
 - (c) specify requirements as to the manner of sending the document.
- (2) For the purposes of subsection (1), the Official Receiver may specify different requirements for different documents or classes of documents, or for different circumstances.
- (3) For the purposes of subsection (1)(b), the Official Receiver may—

- (a) require the document to be authenticated by a particular person or a person of a particular description; and
 - (b) specify the means of authentication.
- (4) For the purposes of subsection (1)(c), the Official Receiver may—
- (a) require the document to be in hard copy form, in electronic form or in any other form;
 - (b) require the document to be sent by post or by any other means;
 - (c) specify requirements as to the address to which the document is to be sent; and
 - (d) in the case of a document to be sent by electronic means—specify requirements as to the hardware and software to be used and the technical specifications.
- (5) This section does not empower the Official Receiver—
- (a) to require a document to be sent to the Official Receiver only by electronic means; or
 - (b) to specify any requirement that is inconsistent with any requirement prescribed by an Ordinance as to—
 - (i) the authentication of the document; and
 - (ii) the manner of sending the document to the Official Receiver.
- (6) Requirements specified under this section are not subsidiary legislation.
- (7) For the purposes of this section—

- (a) a document is sent by electronic means if it is sent in the form of an electronic record to an information system; and
- (b) a reference to sending a document includes any other expression that signifies conveying a document.

(8) In this section—

electronic record (電子紀錄) means a record generated in digital form by an information system, which can be—

- (a) transmitted within an information system or from one information system to another; and
- (b) stored in an information system or other medium;

in electronic form (電子形式) means in the form of an electronic record;

information (資訊、資料) includes data, text, images, sound codes, computer programmes, software and databases, and any combination of them;

information system (資訊系統) means a system that—

- (a) processes information;
- (b) records information;
- (c) can be used to cause information to be recorded, stored or otherwise processed in other information systems (wherever situated); and
- (d) can be used to retrieve information, whether the information is recorded or stored in the system itself or in other information systems (wherever situated);

in hard copy form (印本形式) means in a paper form or similar form capable of being read.

122C. Circumstances in which documents are to be regarded as not having been sent

- (1) This section applies if the Official Receiver is of the opinion that, in relation to a document sent to the Official Receiver—
 - (a) the requirements of this Ordinance regarding the form of the document (including a requirement contained in the form for the provision of any particulars) are not complied with;
 - (b) the requirements specified in relation to the document under section 122B are not complied with; or
 - (c) the requirements otherwise prescribed in relation to the document are not complied with.
- (2) The document is to be regarded as not having been sent to the Official Receiver in satisfaction of the provision of this Ordinance that requires or authorizes the document to be sent to the Official Receiver.
- (3) For the purposes of this section, a reference to sending a document includes any other expression that signifies conveying a document.
- (4) In subsection (1)—

prescribed (訂明) means prescribed by this Ordinance or general rules within the meaning of this Ordinance.”.

Division 2—Amendments to Bankruptcy Rules (Cap. 6 sub. leg. A)

9. Rule 109 amended (proving debts)

Rule 109(1)—

Repeal

“through the post”.

10. Rule 188 amended (cash book)

(1) Rule 188—

Renumber the rule as rule 188(1).

(2) After rule 188(1)—

Add

“(2) Such a book must be in the specified form.”.

11. Rule 190 substituted

Rule 190—

Repeal the rule

Substitute

“190. Audit of cash book

(1) The creditors’ committee must audit the cash book not less than once every 6 months.

(2) When the cash book has been audited, the creditors’ committee must issue a certificate in the prescribed form certifying that the cash book has been audited by the committee.”.

12. Rule 191 amended (Official Receiver’s audit of trustee’s accounts)

Rule 191—

Repeal subrule (3)

Substitute

“(3) The account provided by a trustee for the purposes of section 93 of the Ordinance must be certified as correct by the trustee.”.

**Division 3—Amendments to Bankruptcy (Forms) Rules
(Cap. 6 sub. leg. B)**

13. Schedule amended (forms)

(1) The Schedule, Index of Forms, under heading “**Accounts:**”—

Repeal

“Affidavit verifying trustee’s account 146”.

(2) The Schedule, Form 145—

Repeal

“TRUSTEE’S ACCOUNT”

Substitute

“CASH BOOK”.

(3) The Schedule, Form 145—

Repeal

“foregoing account with the vouchers, and that to the best of our knowledge and belief the said account”

Substitute

“cash book kept by the trustee for the period from the day of to the day of (both dates inclusive) with the vouchers, and that to the best of our knowledge and belief the cash book”.

(4) The Schedule—

Repeal Form 146.

Division 4—Amendment to Bankruptcy (Fees and Percentages) Order (Cap. 6 sub. leg. C)

14. Schedule amended

The Schedule, Table A, item 7A—

Repeal

“or (4A)”

Substitute

“, (4AA) or (4A)”.

Division 5—Amendment to Proof of Debts Rules (Cap. 6 sub. leg. E)

15. Rule 2 amended

Rule 2—

Repeal

“through the post”.

Division 6—Amendments to Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32)

16. Section 2 amended (interpretation)

- (1) Section 2(1), definition of *prescribed*, before “means”—
Add
“, except in sections 2AB and 2AD,”.
- (2) Section 2(1), definition of *specified form*, after “2A”—
Add
“or 2AB”.

17. Section 2A amended (Registrar to specify forms)

Section 2A(1)(b), Chinese text—

Repeal

“格式或已為該目的訂明格式”

Substitute

“格式或表格，或已為該目的訂明格式或表格”。

18. Sections 2AB, 2AC and 2AD added

After section 2A—

Add

“2AB. Official Receiver may specify forms

- (1) The Official Receiver may specify a form for use in relation to any purpose of this Ordinance.
- (2) A form specified under subsection (1) for use in relation to a purpose may contain a requirement for the provision of any particulars ancillary or incidental to that purpose.

- (3) Despite subsection (1), the Official Receiver may not specify a form for use in relation to a purpose if—
 - (a) this Ordinance provides otherwise;
 - (b) this Ordinance requires, or provides for, the use of a prescribed form (whether or not a form is prescribed) for that purpose; or
 - (c) a form is prescribed for that purpose.
- (4) In exercising, as regards any purpose of this Ordinance, the power conferred under subsection (1), the Official Receiver may, if the Official Receiver thinks fit, specify more than one form to be used in relation to that purpose, whether as alternatives or to provide for different circumstances.
- (5) In subsection (3)—

prescribed (訂明) means prescribed by—

 - (a) general rules;
 - (b) regulations made under section 168S(2); or
 - (c) regulations made under section 359A.

2AC. Official Receiver may specify requirements relating to documents

- (1) The Official Receiver may, in relation to any document required or authorized to be sent to the Official Receiver under this Ordinance—
 - (a) specify requirements for the purpose of enabling the Official Receiver to make copies or image records of the document and to keep records of the information contained in it;
 - (b) specify requirements as to the authentication of the document; and

- (c) specify requirements as to the manner of sending the document.
- (2) For the purposes of subsection (1), the Official Receiver may specify different requirements for different documents or classes of documents, or for different circumstances.
- (3) For the purposes of subsection (1)(b), the Official Receiver may—
 - (a) require the document to be authenticated by a particular person or a person of a particular description;
 - (b) specify the means of authentication; and
 - (c) require the document to contain, or to be accompanied by, the name or registration number, or both, of the company to which it relates.
- (4) For the purposes of subsection (1)(c), the Official Receiver may—
 - (a) require the document to be in hard copy form, in electronic form or in any other form;
 - (b) require the document to be sent by post or by any other means;
 - (c) specify requirements as to the address to which the document is to be sent; and
 - (d) in the case of a document to be sent by electronic means—specify requirements as to the hardware and software to be used and the technical specifications.
- (5) This section does not empower the Official Receiver—

- (a) to require a document to be sent to the Official Receiver only by electronic means; or
- (b) to specify any requirement that is inconsistent with any requirement prescribed by an Ordinance as to—
 - (i) the authentication of the document; and
 - (ii) the manner of sending the document to the Official Receiver.
- (6) Requirements specified under this section are not subsidiary legislation.
- (7) For the purposes of this section—
 - (a) a document is sent by electronic means if it is sent in the form of an electronic record to an information system; and
 - (b) a reference to sending a document includes any other expression that signifies conveying a document.

(8) In this section—

electronic record (電子紀錄) means a record generated in digital form by an information system, which can be—

- (a) transmitted within an information system or from one information system to another; and
- (b) stored in an information system or other medium;

in electronic form (電子形式) means in the form of an electronic record;

information (資訊、資料) includes data, text, images, sound codes, computer programmes, software and databases, and any combination of them;

information system (資訊系統) means a system that—

- (a) processes information;
- (b) records information;
- (c) can be used to cause information to be recorded, stored or otherwise processed in other information systems (wherever situated); and
- (d) can be used to retrieve information, whether the information is recorded or stored in the system itself or in other information systems (wherever situated);

in hard copy form (印本形式) means in a paper form or similar form capable of being read.

2AD. Circumstances in which documents are to be regarded as not having been sent

- (1) This section applies if the Official Receiver is of the opinion that, in relation to a document sent to the Official Receiver—
 - (a) the requirements of this Ordinance regarding the form of the document (including a requirement contained in the form for the provision of any particulars) are not complied with;
 - (b) the requirements specified in relation to the document under section 2AC are not complied with; or
 - (c) the requirements otherwise prescribed in relation to the document are not complied with.

- (2) The document is to be regarded as not having been sent to the Official Receiver in satisfaction of the provision of this Ordinance that requires or authorizes the document to be sent to the Official Receiver.
- (3) For the purposes of this section, a reference to sending a document includes any other expression that signifies conveying a document.
- (4) In subsection (1)—
prescribed (訂明) means prescribed by—
 - (a) this Ordinance;
 - (b) general rules;
 - (c) regulations made under section 168S(2); or
 - (d) regulations made under section 359A.”.

19. Section 203 amended (audit of liquidator’s accounts)

- (1) Section 203—

Repeal subsections (1) and (2)

Substitute

- “(1) The Official Receiver may at any time require a liquidator (other than the Official Receiver) of a company that is being wound up by the court to provide the Official Receiver, within the time limit specified by the Official Receiver, with an account of the liquidator’s receipts and payments as liquidator.
- (2) If a requirement is made under subsection (1), the liquidator must provide the account in the specified form within the time limit specified by the Official Receiver.”.

(2) Section 203—

Repeal subsection (4)

Substitute

- “(4) When the account has been audited, the liquidator must deliver a copy of the account to each of the specified entities for filing.
- (4A) If the Official Receiver decides that the account need not be audited, the liquidator must, as soon as practicable after the decision, deliver a copy of the account to each of the specified entities for filing.
- (4B) If a copy of the account is delivered by the liquidator to a specified entity under subsection (4) or (4A), the entity—
- (a) must keep the copy of the account so delivered to the entity in the manner that the entity thinks fit; and
 - (b) must cause the copy of the account so kept by the entity to be open on payment of the prescribed fee to the inspection of any creditor, or any person having an interest, in the manner that the entity thinks fit.”.

(3) Section 203(6)—

Repeal paragraph (a)

Substitute

- “(a) the liquidator must deliver a copy of the audited account to each of the specified entities for filing;
- (ab) a specified entity must keep the copy of the audited account so delivered to the entity in the manner that the entity thinks fit;

(ac) a specified entity must cause the copy of the audited account so kept by the entity to be open on payment of the prescribed fee to the inspection of any creditor, or any person having an interest, in the manner that the entity thinks fit; and”.

(4) After section 203(6)—

Add

“(7) In this section—

specified entity (指明單位) means—

- (a) the Official Receiver; or
- (b) the court.”.

Division 7—Amendment to Companies (Fees and Percentages) Order (Cap. 32 sub. leg. C)

20. Schedule 3 amended

Schedule 3, Table A, item 1A—

Repeal

“section 203(4) or (6)”

Substitute

“section 203(4), (4A) or (6)”.

Division 8—Amendments to Companies (Winding-up) Rules (Cap. 32 sub. leg. H)

21. Rule 80 amended (mode of proof)

Rule 80—

Repeal

“through the post”.

22. Rule 161 substituted

Rule 161—

Repeal the rule

Substitute

“161. Audit of Cash Book

- (1) The committee of inspection must audit the liquidator’s Cash Book not less than once every 3 months.
- (2) When the Cash Book has been audited, the committee of inspection must issue a certificate in the prescribed form certifying that the Cash Book has been audited by the committee. (*See Form 86*”).

23. Rule 162 amended (Official Receiver’s audit of liquidator’s accounts)

(1) Rule 162(1)—

Repeal

“in duplicate, together with the necessary vouchers”.

(2) Rule 162(1), after “affairs and”—

Add

“a copy of”.

(3) Rule 162(1)—

Repeal

“thereon in red ink”

Substitute

“on the summary”.

- (4) Rule 162(1), Chinese text—

Repeal

“書副本”

Substitute

“書的文本”.

- (5) Rule 162(3)—

Repeal

“in writing”.

24. Rule 164 amended (copy of accounts to be filed)

- (1) Rule 164, Chinese text, heading—

Repeal

“副本”

Substitute

“文本”.

- (2) Rule 164—

Repeal

everything after “has been”

Substitute

“audited—

- (a) the Official Receiver must issue a certificate certifying that the account has been audited by the Official Receiver; and
- (b) the liquidator must file with the Registrar a copy of the account together with a copy of the certificate.”.

25. Rule 165 amended (summary of accounts)

(1) Rule 165—

Repeal paragraph (1)

Substitute

“(1) Subject to the proviso to section 203(5) and the proviso to section 203(6)(b) of the Ordinance, the liquidator—

(a) must transmit to the Official Receiver with the liquidator’s accounts a summary of the accounts in the specified form for the Official Receiver’s confirmation as to whether the summary conforms with the accounts; and

(b) must, if the Official Receiver confirms that the summary conforms with the accounts, send a printed copy of the summary to every creditor and every contributory as soon as practicable after the confirmation.”.

(2) Rule 165(1A)—

Repeal

“said proviso the Official Receiver dispenses with compliance with section 203(5) of the Ordinance”

Substitute

“proviso to section 203(5) or the proviso to section 203(6)(b) of the Ordinance the Official Receiver dispenses with compliance with that section”.

26. Appendix amended (forms)

(1) Appendix, Form 86—

Repeal

“Liquidator’s Accounts”

Part 3

Amendments relating to Publication Requirements for Various Notices

Division 1—Amendments to Bankruptcy Ordinance (Cap. 6)

27. **Section 2 amended (interpretation)**

Section 2—

Add in alphabetical order

“*specified means* (指明方式)—see section 2A;”.

28. **Section 2A added**

Part I, after section 2—

Add

“2A. Specified means

- (1) For the purposes of this Ordinance, a notice, an order or a matter is published or given by the specified means if it is published in a medium specified in Schedule 4.
- (2) The Secretary for Financial Services and the Treasury may, by notice published in the Gazette—
 - (a) add a medium to Schedule 4;
 - (b) delete a medium from that Schedule; or
 - (c) otherwise amend that Schedule.
- (3) In exercising the power under subsection (2)(a), the Secretary for Financial Services and the Treasury may add more than one medium.”.

29. Section 16 amended (advertisement of bankruptcy order)

(1) Section 16, heading—

Repeal

“**Advertisement**”

Substitute

“**Publication of notice**”.

(2) Section 16—

Repeal

“shall be gazetted”

Substitute

“must be published by the specified means”.

30. Section 30A amended (discharge from bankruptcy)

Section 30A(5)—

Repeal paragraph (b)

Substitute

“(b) publish a notice in English and Chinese by the specified means”.

31. Section 67 amended (declaration and distribution of dividends)

Section 67(4) and (5)—

Repeal

“gazetted”

Substitute

“published by the specified means”.

32. Section 131 amended (undischarged bankrupt obtaining credit)

Section 131(c)—

Repeal

“, once in the Gazette, and in 3 successive issues of 2 local newspapers one of which shall be Chinese,”

Substitute

“by the specified means”.

33. Schedule 4 added

After Schedule 3—

Add

“Schedule 4

[s. 2A]

Specified Means

1. Gazette”.

**Division 2—Amendments to Bankruptcy Rules (Cap. 6 sub.
leg. A)**

34. Rule 11 amended (Official Receiver or trustee to file copies of advertisements)

- (1) After rule 11(2)—

Add

“(2A) In the case of an advertisement in a medium other than the Gazette or a local newspaper, the person specified in subrule (3) must file a memorandum referring to, and giving the date of, the advertisement with the court.”.

- (2) Rule 11(3), English text—

Repeal

“inserted”

Substitute

“published”.

- (3) Rule 11(3)(a) and (b)—

Repeal

“and (2)”

Substitute

“, (2) and (2A)”.

- (4) Rule 11(4)—

Repeal

“such advertisement shall be prima facie evidence that it was duly inserted”

Substitute

“an advertisement mentioned in subrule (1) or (2) is prima facie evidence that it was duly published”.

- (5) After rule 11(4)—

Add

“(5) The filed copy of a memorandum referring to an advertisement mentioned in subrule (2A) is prima facie evidence that the advertisement was duly published in the medium mentioned in it.”.

35. Rule 78 amended (advertisement)

- (1) Rule 78, heading—

Repeal

“Advertisement”

Substitute

“Publication of notice of bankruptcy order”.

(2) Rule 78—

Repeal

“send notice thereof to the Gazette and to such local newspaper or newspapers as he may think fit”

Substitute

“publish a notice of the order by the specified means”.

36. Rule 85 amended (proceeding after adjournment sine die)

Rule 85—

Repeal

“gazetting, advertising”

Substitute

“publishing”.

37. Rule 86 amended (notice of public examination)

Rule 86(b)—

Repeal

“gazette such notice”

Substitute

“publish such notice by the specified means”.

38. Rule 92 amended (certificate of discharge)

Rule 92(2)—

Repeal

everything after “discharge”

Substitute

“by the specified means.”.

- 39. Rule 93 amended (deferment of issue of order pending appeal)**
Rule 93—
Repeal
“and not be gazetted”
Substitute
“, and the notice mentioned in rule 92(2) need not be published.”.
- 40. Rule 99A amended (four clear days’ notice to be given of meeting)**
Rule 99A—
Repeal
“in the Gazette and in a local newspaper”
Substitute
“by the specified means”.
- 41. Rule 101 amended (notice of meeting to appoint successive trustee)**
Rule 101—
Repeal
“gazette and advertise the same in one local newspaper if he considers such advertisement desirable”
Substitute
“publish a notice of the meeting by the specified means”.
- 42. Rule 122M amended (summoning of creditors’ meeting)**
(1) Rule 122M(4)—
Repeal
everything after “published”

Substitute

“in Chinese and English by the specified means.”.

- (2) After rule 122M(4)—

Add

“(5) A notice published under subrule (4) constitutes constructive notice to all creditors of the debtor.”.

43. Rule 123 amended (notice of intended dividend)

- (1) Rule 123(1)—

Repeal

“shall gazette”

Substitute

“must publish by the specified means”.

- (2) Rule 123(3)—

Repeal

everything after “the trustee,”

Substitute

“the trustee—

- (a) must proceed to declare a dividend and publish a notice of dividend by the specified means; and
- (b) must send a notice of dividend to each creditor whose proof has been admitted.”.

- (3) Rule 123(4)—

Repeal

“shall gazette”

Substitute

“must publish by the specified means”.

44. Rule 146 substituted

Rule 146—

Repeal the rule

Substitute

“146. Publication of administration order

When an administration order under section 112 of the Ordinance is made, the Official Receiver must, as soon as practicable after the order is made, publish a notice of the order by the specified means.”.

45. Rule 149A amended (administration of small bankruptcies)

Rule 149A(2)—

Repeal

“in the Gazette”

Substitute

“by the specified means”.

46. Part 4 heading amended (Official Receiver, trustees, special managers, security by trustee or special manager, gazetting, accounts and audit, unclaimed funds)

Part 4, heading—

Repeal

“Gazetting”

Substitute

“Publication of Notices”.

47. Rule 162 amended (notice of appointment)

(1) Rule 162(1)—

Repeal

everything after “appointment to be”

Substitute

“published by the specified means.”.

(2) Rule 162(2)—

Repeal

“such gazetting and publication shall”

Substitute

“such publication is to”.

48. Rule 165 amended (removal by court)

Rule 165—

Repeal

“gazetted”

Substitute

“published by the specified means”.

49. Part 4, Division 4 heading amended (gazetting)

Part 4, Division 4, heading—

Repeal

“Gazetting”

Substitute

“Publication of Notices”.

50. Rule 184 amended (gazetting notices)

(1) Rule 184, heading—

Repeal

“Gazetting”

Substitute

“**Publishing**”.

(2) Rule 184(1)—

Repeal

“All notices requiring publication in the Gazette shall be gazetted”

Substitute

“Except as otherwise provided in this Ordinance, all notices required to be published by the specified means must be published”.

51. Rules 185 and 186 substituted

Rules 185 and 186—

Repeal the rules

Substitute

“185. Republication of order or matter

(1) This rule applies if—

- (a) a bankruptcy order is amended;
- (b) a matter gazetted by a responsible person before the appointed date has been amended or altered, or a matter has been wrongly or inaccurately gazetted by a responsible person before the appointed date; or
- (c) a matter published by the specified means by a responsible person after the appointed date has been amended or altered, or a matter has been wrongly or inaccurately published by the specified means by a responsible person after the appointed date.

- (2) The responsible person must republish by the specified means such order or matter with the necessary amendments and alterations in the prescribed form.
- (3) Subject to any order made by the court, the fee for republishing such order or matter must be paid at the expense of the estate.
- (4) In subrule (1)—

appointed date (指定日期) means the date on which Part 3 of the Bankruptcy and Companies Legislation (Miscellaneous Amendments) Ordinance 2023 (22 of 2023) comes into operation;

responsible person (負責人) means the Official Receiver or the trustee.

186. Publishing notice of annulment of order already gazetted or published by specified means

- (1) This rule applies if—
 - (a) a notice for an order has been gazetted before the appointed date and the order is annulled; or
 - (b) a notice for an order has been published by the specified means after the appointed date and the order is annulled.
- (2) Subject to any order made by the court, notice of the order of annulment must be published by the specified means.
- (3) The fee for publishing the notice mentioned in subrule (2) must be paid—
 - (a) if the order is annulled on the application of the Official Receiver or the trustee—out of the estate; or

(b) if the order is annulled on the application of any other person—subject to any order made by the court, by the person who makes the application.

(4) In subrule (1)—

appointed date (指定日期) means the date on which Part 3 of the Bankruptcy and Companies Legislation (Miscellaneous Amendments) Ordinance 2023 (22 of 2023) comes into operation.”.

52. Rule 195 amended (joint and separate estates accounts)

Rule 195—

Repeal

“gazetted”

Substitute

“published by the specified means”.

**Division 3—Amendments to Bankruptcy (Forms) Rules
(Cap. 6 sub. leg. B)**

53. Schedule amended (forms)

(1) The Schedule, Index of Forms, under heading “**Accounts:**”, after the following—

“Statement of accounts under section 88 150”

Add

“Transfer from separate estate to joint estate 154”.

(2) The Schedule, Index of Forms, under heading “**Advertisement:**”, before the following—

“Of day for proceeding with public examination ... 54”

Add

“Memorandum of advertisement 170”.

- (3) The Schedule, Chinese text, Index of Forms, under heading “**Advertisement:**”—

Repeal

“日期的公告”

Substitute

“日期的通知”.

- (4) The Schedule, Index of Forms, under heading “**Bankruptcy Order:**”—

Repeal

“(for local newspaper)”.

- (5) The Schedule, Index of Forms, heading “**Gazetting and publication in newspaper:**”—

Repeal

“**Gazetting and publication**”

Substitute

“**Publication**”.

- (6) The Schedule, Index of Forms, under heading “**Publication in newspaper:**”—

Repeal

“Transfer from separate estate to joint estate 154”.

- (7) The Schedule, Index of Forms, under heading “**Public examination:**”—

Repeal

“(local newspaper)”.

- (8) The Schedule, Form 27—

Repeal

“(for local newspaper)”.

- (9) The Schedule, Form 54—

Repeal

“(FOR LOCAL NEWSPAPER OR *Gazette*)”.

- (10) The Schedule, Form 88—

Repeal

“advertisement of this order in a local newspaper and/or the *Gazette*”

Substitute

“the trustee to publish a notice under rule 92(2) of the Bankruptcy Rules (Cap. 6 sub. leg. A)”.

- (11) The Schedule, Form 137—

Repeal

“Gazetting and advertising charges”

Substitute

“Charges for publication of notices”.

- (12) The Schedule, Form 154—

Repeal

“FOR GAZETTE”.

- (13) The Schedule, Form 154—

Repeal

“in the *Gazette*, to”

Substitute

“in _____, to”.

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(14) The Schedule, Chinese text, Form 154—

Repeal

“的通知書”

Substitute

“的公告”.

(15) The Schedule, after Form 169—

Add

“Form 170

[rule 11]

Memorandum of Advertisement

(Title)

Name of medium and (if applicable) issue number	Date of publication of advertisement	Date of filing this memorandum	Nature of order etc.

(Signed)”.

Division 4—Amendments to Bankruptcy (Fees and Percentages) Order (Cap. 6 sub. leg. C)

54. Schedule amended

- (1) The Schedule, Table A, item 6(a)—

Repeal

“gazetting”

Substitute

“publication”.

- (2) The Schedule, Table A, item 18—

Repeal

“insertion in the Gazette”

Substitute

“the publication”.

Division 5—Amendments to Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32)

55. Section 2 amended (interpretation)

Section 2(1)—

Add in alphabetical order

“*specified means* (指明方式)—see section 2C;”.

56. Section 2C added

After section 2B—

Add

“2C. Specified means

- (1) For the purposes of this Ordinance, a notice, an order or a matter is published or given by the specified means if it is published in a medium specified in Schedule 27.
- (2) The Secretary for Financial Services and the Treasury may, by notice published in the Gazette—
 - (a) add a medium to Schedule 27;
 - (b) delete a medium from that Schedule; or
 - (c) otherwise amend that Schedule.
- (3) In exercising the power under subsection (2)(a), the Secretary for Financial Services and the Treasury may add more than one medium.”.

57. Section 228A amended (special procedure for voluntary winding up of company in case of inability to continue its business)

- (1) Section 228A(9) and (11)(a)—

Repeal

“in the Gazette”

Substitute

“by the specified means”.

- (2) Section 228A(17)(a)(ii)—

Repeal

“advertisement of the meeting of creditors required by subsection (2) of that section must occur”

Substitute

“notice of the meeting of the creditors required to be published by subsection (2) of that section must be published”.

- 58. Section 229 amended (notice of resolution to wind up voluntarily)**
Section 229(1)—
Repeal
“advertisement in the Gazette”
Substitute
“the specified means”.
- 59. Section 237A amended (duty of liquidator to summon creditors’ meeting, etc. in case of insolvency)**
Section 237A(1A)(c)—
Repeal
everything after “meeting to be”
Substitute
“published by the specified means in Chinese and English.”.
- 60. Section 239 amended (final meeting and dissolution)**
Section 239—
Repeal subsection (2)
Substitute
“(2) The meeting must be called by publishing a notice specifying the time, place and object of the meeting by the specified means at least 1 month before the meeting.”.
- 61. Section 241 amended (meeting of creditors)**
Section 241(2)—
Repeal
everything after “creditors to be”

Substitute

“published by the specified means in Chinese and English.”.

62. Section 248 amended (final meeting and dissolution)

Section 248—

Repeal subsection (2)

Substitute

“(2) Each such meeting must be called by publishing a notice specifying the time, place and object of the meeting by the specified means at least 1 month before the meeting.”.

63. Section 253 amended (notice by liquidator of his appointment or ceasing to act)

Section 253(1)(a) and (2)(a)—

Repeal

“in the Gazette”

Substitute

“by the specified means”.

64. Section 296B amended (application of Division 6)

Section 296B(3)—

Repeal

“give any notice by advertisement in the Gazette or a newspaper”

Substitute

“publish or give any notice, order or matter by the specified means”.

65. Twelfth Schedule amended (punishment of offences under this Ordinance)

- (1) Twelfth Schedule, entry relating to section 228A(9A), under heading “General nature of offence”—

Repeal

“in the Gazette”

Substitute

“by the specified means”.

- (2) Twelfth Schedule, entry relating to section 228A(13) (relating to subsection (11)(a)), under heading “General nature of offence”—

Repeal

“in the Gazette”

Substitute

“by the specified means”.

- (3) Twelfth Schedule, entry relating to section 229(2), under heading “General nature of offence”—

Repeal

“advertise in the Gazette notice of resolution to wind up voluntarily”

Substitute

“give notice of resolution to wind up voluntarily by the specified means”.

- (4) Twelfth Schedule, entry relating to section 237A(3) (relating to subsection (1A)), under heading “General nature of offence”—

Repeal

“advertised”

Substitute

“published by the specified means”.

- (5) Twelfth Schedule, entry relating to section 253(4) (relating to subsection (1)(a)), under heading “General nature of offence”—

Repeal

“in the Gazette”

Substitute

“by the specified means”.

- (6) Twelfth Schedule, entry relating to section 253(4) (relating to subsection (2)(a)), under heading “General nature of offence”—

Repeal

“in the Gazette”

Substitute

“by the specified means”.

66. Schedule 27 added

After Schedule 26—

Add

“Schedule 27

[s. 2C]

Specified Means

1. Gazette”.

Division 6—Amendment to Companies (Fees and Percentages) Order (Cap. 32 sub. leg. C)

67. Schedule 3 amended

Schedule 3, Table A, item 7—

Repeal

“insertion in the Gazette”

Substitute

“the publication”.

Division 7—Amendments to Companies (Winding-up) Rules (Cap. 32 sub. leg. H)

68. Rule 27A amended (administration of small liquidations)

Rule 27A(2)—

Repeal

“in the Gazette”

Substitute

“by the specified means”.

69. Rule 36 amended (transmission and advertisement of winding-up order)

(1) Rule 36(1)(b), after “prescribed;”—

Add

“and”.

(2) Rule 36(1)(c)—

Repeal

“gazetted;”

Substitute

“published by the specified means.”.

- (3) Rule 36(1)—

Repeal subparagraph (d).

70. Rule 45 amended (appointment of liquidator and committee of inspection on report of meetings of creditors and contributories)

- (1) Rule 45(5)—

Repeal

“gazetted”

Substitute

“published by the specified means”.

- (2) Rule 45(5)—

Repeal

“gazetting”

Substitute

“publishing”.

71. Rule 55 amended (notice of public examination to creditors and contributories)

- (1) Rule 55(1)—

Repeal

everything after “contributories”

Substitute

“by the specified means. (*See Form 103(3)*)”.

(2) Rule 55—

Repeal paragraph (2).

72. Rule 74 amended (calls by liquidator)

Rule 74(b)—

Repeal

“advertised once at least in a Hong Kong daily newspaper.
The advertisement”

Substitute

“published by the specified means. The notice”.

73. Rule 93 amended (notice to creditors to prove)

Rule 93(1)—

Repeal

“advertisement in such newspaper as he shall consider
convenient”

Substitute

“the specified means”.

74. Rule 107 amended (notice of first meetings)

(1) Rule 107—

Repeal

“advertisement in the Gazette”

Substitute

“the specified means”.

(2) Rule 107, Chinese text—

Repeal

“藉在憲報刊登公告，”。

75. Rule 114 amended (summoning of meetings)

Rule 114(1)—

Repeal

“in the Gazette and in one or more local papers”

Substitute

“by the specified means”.

76. Rule 142 amended (dividends to creditors)

(1) Rule 142(1), (3) and (4)—

Repeal

“publication in the Gazette”

Substitute

“the specified means”.

(2) Rule 142(8)—

Repeal

“gazetted”

Substitute

“published by the specified means”.

77. Rule 143 amended (return of capital to contributories)

Rule 143, after “each contributory”—

Add

“and publish the notice by the specified means”.

78. Rule 189 amended (proceedings for release of liquidator)

(1) Rule 189(2)—

Repeal

“gazetted”

Substitute

“published by the specified means”.

(2) Rule 189(2)—

Repeal

“the Gazette”

Substitute

“publishing the notice”.

(3) Rule 189(3)—

Repeal

“in the Gazette”

Substitute

“by the specified means”.

79. Cross-heading before rule 202 amended (gazetting in a winding up by the court)

Cross-heading before rule 202—

Repeal

“Gazetting”

Substitute

“Publication of Notices”.

80. Rule 202 amended (gazetting notices)

(1) Rule 202, heading—

Repeal

“Gazetting”

Substitute

“Publishing”.

- (2) Rule 202(1)—

Repeal

“in the Gazette shall be gazetted”

Substitute

“by the specified means must be published or given”.

- (3) Rule 202—

Repeal paragraph (2)

Substitute

- “(2) Paragraph (3) applies if—
- (a) a winding-up order is amended;
 - (b) a matter gazetted by a responsible person before the appointed date has been amended or altered, or a matter has been wrongly or inaccurately gazetted by a responsible person before the appointed date; or
 - (c) a matter published by the specified means by a responsible person after the appointed date has been amended or altered, or a matter has been wrongly or inaccurately published by the specified means by a responsible person after the appointed date.
- (3) The responsible person must republish by the specified means such order or matter with the necessary amendments and alterations in the prescribed form.

(4) Subject to any order made by the court, the fee for republishing such order or matter must be paid at the expense of the company's assets.

(5) In paragraph (2)—

appointed date (指定日期) means the date on which Part 3 of the Bankruptcy and Companies Legislation (Miscellaneous Amendments) Ordinance 2023 (22 of 2023) comes into operation;

responsible person (負責人) means the Official Receiver or the liquidator.”.

81. Rule 203 amended (filing memorandum of Gazette notices)

(1) Rule 203, heading—

Repeal

“**Gazette notices**”

Substitute

“**advertisements**”.

(2) Rule 203(3), English text—

Repeal

“inserted”

Substitute

“published”.

(3) Rule 203(3), English text—

Repeal

“inserts”

Substitute

“publishes”.

- (4) After rule 203(3)—

Add

“(3A) In the case of an advertisement relating to any winding-up proceeding in a medium other than the Gazette or a local paper, the Official Receiver or liquidator as the case may be must file with the proceeding a memorandum referring to, and giving the date of, the advertisement.”.

- (5) Rule 203(4)—

Repeal

“inserted in the issue of the Gazette or newspaper”

Substitute

“published in the issue of the Gazette or newspaper, or in the medium,”.

82. Appendix amended (forms)

- (1) Appendix—

Repeal Form 16.

- (2) Appendix, Form 25—

Repeal

“gazetted and advertised”

Substitute

“published”.

- (3) Appendix, Form 25—

Repeal

“name of newspaper (if any)”

Substitute

“the medium”.

- (4) Appendix, Form 51—
Repeal
“Advertisement”
Substitute
“Notice”.
- (5) Appendix, Form 51—
Repeal
“19” (wherever appearing).
- (6) Appendix, Form 68—
Repeal
“19” (wherever appearing).
- (7) Appendix, Form 68—
Repeal
“insertion in the *Gazette*, on”
Substitute
“publication in _____, on”.
- (8) Appendix, Form 100—
Repeal
“Costs of notices in *Gazette* and local papers”
Substitute
“Costs of publishing notices”.
- (9) Appendix, Form 103—
Repeal
“Notices for *Gazette*”.
- (10) Appendix, Chinese text, Form 103—
Repeal

“第一次會議公告”

Substitute

“第一次會議通知書”.

- (11) Appendix, Chinese text, Form 103—

Repeal

“公開訊問公告”

Substitute

“公開訊問通知書”.

- (12) Appendix, Chinese text, Form 103—

Repeal

“擬派發攤還債款公告”

Substitute

“擬派發攤還債款通知書”.

- (13) Appendix, Chinese text, Form 103—

Repeal

“(5) 派發攤還債款公告”

Substitute

“(5) 攤還債款通知書”.

- (14) Appendix, Form 104—

Repeal

“or Gazetting”.

- (15) Appendix, Form 104—

Repeal

“paper”

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Substitute

“medium and (if applicable) issue number”.

(16) Appendix, Form 104—

Repeal

“Date of issue”

Substitute

“Date of publication of advertisement”.

(17) Appendix, Form 104—

Repeal

“filing”

Substitute

“filing this memorandum”.

Part 4

Amendments relating to Sending of Proxy by Electronic Means

Division 1—Amendments to Bankruptcy Rules (Cap. 6 sub. leg. A)

83. Rule 99R amended (time for lodging proxy)

- (1) Rule 99R(2)—

Repeal

“received by facsimile transmission by”

Substitute

“sent by facsimile transmission or electronic means to, and received by,”.

- (2) Rule 99R(2), Chinese text, before “按”—

Add

“如”.

- (3) Rule 99R(2), Chinese text—

Repeal

“如在”

Substitute

“在”.

- (4) After rule 99R(2)—

Add

“(3) For the purposes of subrule (2), a proxy is sent by electronic means if it is sent in the form of an electronic record to an information system.

(4) In this rule—

electronic record (電子紀錄) means a record generated in digital form by an information system, which can be—

- (a) transmitted within an information system or from one information system to another; and
- (b) stored in an information system or other medium;

information (資訊、資料) includes data, text, images, sound codes, computer programmes, software and databases, and any combination of them;

information system (資訊系統) means a system that—

- (a) processes information;
- (b) records information;
- (c) can be used to cause information to be recorded, stored or otherwise processed in other information systems (wherever situated); and
- (d) can be used to retrieve information, whether the information is recorded or stored in the system itself or in other information systems (wherever situated).”.

Division 2—Amendments to Companies (Winding-up) Rules (Cap. 32 sub. leg. H)

84. Rule 139 amended (lodgment of proxies)

(1) Rule 139(2A)—

Repeal

“to and received by”

Substitute

“or electronic means to, and received by,”.

- (2) Rule 139(2A), Chinese text, before “按”—

Add

“如”.

- (3) Rule 139(2A), Chinese text—

Repeal

“如在”

Substitute

“在”.

- (4) Rule 139(2A), Chinese text, before “接獲”—

Add

“在該時間內”.

- (5) After rule 139(3)—

Add

“(4) For the purposes of the paragraph (2A), a proxy is sent by electronic means if it is sent in the form of an electronic record to an information system.

- (5) In this rule—

electronic record (電子紀錄) means a record generated in digital form by an information system, which can be—

- (a) transmitted within an information system or from one information system to another; and
(b) stored in an information system or other medium;

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information (資訊、資料) includes data, text, images, sound codes, computer programmes, software and databases, and any combination of them;

information system (資訊系統) means a system that—

- (a) processes information;
 - (b) records information;
 - (c) can be used to cause information to be recorded, stored or otherwise processed in other information systems (wherever situated); and
 - (d) can be used to retrieve information, whether the information is recorded or stored in the system itself or in other information systems (wherever situated).”.
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Part 5

Miscellaneous Amendments

Division 1—Amendments to Bankruptcy Ordinance (Cap. 6)

85. Section 38 amended (priority of debts)

Section 38(1)(d)—

Repeal

“Crown”

Substitute

“Government”.

86. Section 127 amended (certain provisions to bind Crown)

(1) Section 127, heading—

Repeal

“Crown”

Substitute

“Government”.

(2) Section 127—

Repeal

“Crown”

Substitute

“Government”.

Division 2—Amendment to Bankruptcy Rules (Cap. 6 sub. leg. A)

87. Rule 5 amended (matters to be heard in court)

Rule 5, Chinese text—

Repeal

“大法官” (wherever appearing)

Substitute

“法官”.

Division 3—Amendment to Bankruptcy (Fees and Percentages) Order (Cap. 6 sub. leg. C)

88. Schedule amended

The Schedule, Table A, after item 7—

Add

“7A. On an inspection of a copy of the trustee’s accounts filed under section 93(4) or (4A) 11.00”.

Division 4—Amendment to Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32)

89. Section 168E amended (disqualification on conviction of indictable offence)

Section 168E(3)(a), Chinese text—

Repeal

“大法官”

Substitute

“法官”.

**Division 5—Amendment to Companies (Winding Up and
Miscellaneous Provisions) (Amendment) Ordinance 2016 (14
of 2016)**

**90. Part 8, Division 7 repealed (amendments to Companies (Winding
Up and Miscellaneous Provisions) (Amendment) Ordinance 2016
(14 of 2016))**

Part 8—

Repeal Division 7.