

80. Application to annul bankruptcy order or to stay proceedings thereunder

- (1) An application to the court to annul a bankruptcy order or to stay proceedings thereunder, made by any person other than the Official Receiver or trustee shall not be heard except upon proof that notice of the intended application and a copy of the affidavits in support thereof have been duly served upon the Official Receiver or trustee, as the case may be. Notice of any such application shall be served on the Official Receiver or trustee, as the case may be, not less than 7 days before the day named in the notice for hearing the application. Pending the hearing of the application, the court may make an interim order staying such of the proceedings as it thinks fit.
- (1A) Before an application referred to in subrule (1) is heard by the court, the applicant shall, if he considers that notice of annulment should be advertised or gazetted under section 33(5) of the Ordinance in the event the application is successful, deposit with the Official Receiver or trustee the costs thereof, as estimated by the Official Receiver or trustee. (*L.N. 77 of 1998; L.N. 150 of 2014*)
- (2) In any case in which any such application is made by the Official Receiver or trustee, 4 days' notice thereof and a copy of any report in support thereof shall be served on the bankrupt and the petitioning creditor (if any) and the trustee where he is not the applicant:
Provided that where such service is found to be impracticable by reason that the bankrupt or the petitioning creditor is out of Hong Kong or cannot be found at his usual or last known address or place of business no objection shall be taken to the application on the ground of such service not having been effected.
- (3) Where an application is made to the court under section 33(1)(b) of the Ordinance to annul a bankruptcy order, the trustee shall and the Official Receiver (where he is not the trustee) may make and file 4 days before the day appointed for hearing the application a report as to the bankrupt's conduct and affairs, including a report as to his conduct during the proceedings, and the court on the hearing of the application shall hear and consider such report and such further evidence as may be adduced by any party, and any objections which may be made by the Official Receiver, or by or on behalf of the trustee (if any) or any creditor whom the court may order to be served with notice of the application or may permit to appear thereon. For the purposes of the application, any report made by the Official Receiver under this subrule shall be prima facie evidence of the statements therein contained. (*L.N. 150 of 2014*)
- (3A) Where an order is made annulling a bankruptcy order, the trustee shall, on application by the former bankrupt, issue to him a certificate confirming such annulment. (*L.N. 77 of 1998*)
- (4) For the purposes of this rule **creditor** (債權人) includes all creditors mentioned in the bankrupt's statement of affairs or who have notified to the trustee that they have, or at the date of the bankruptcy order had, claims against the bankrupt.

(*L.N. 231 of 1984; L.N. 77 of 1998; L.N. 123 of 2007*)