

134. Bankrupt failing to keep proper accounts

- (1) Any person who has been adjudged bankrupt shall be guilty of an offence if, having been engaged in any trade or business during any period in the 2 years immediately preceding the date of the presentation of the bankruptcy petition, he has not kept proper books of account throughout that period and throughout any further period in which he was so engaged between the date of the presentation of the petition and the date of the bankruptcy order, or has not preserved all books of account so kept: (*Amended 50 of 1991 s. 4; 76 of 1996 s. 66*)

Provided that a person who has not kept or has not preserved such books of account shall not be convicted of an offence under this section—

- (a) if his unsecured liabilities at the date of the bankruptcy order did not exceed, in the case of a person who has not on any previous occasion in Hong Kong or elsewhere been adjudged bankrupt or entered into a voluntary arrangement with his creditors, \$5,000 or in any other case \$1,000; or (*Amended 47 of 1984 s. 16; 76 of 1996 s. 66*)
- (b) if he proves that in the circumstances in which he traded or carried on business the omission was honest and excusable.
- (2) A prosecution shall not be instituted against any person under this section except by order of the court. (*Amended 33 of 1939; G.N. 840 of 1940 Supp. Schedule*)
- (3) For the purposes of this section, a person shall be deemed not to have kept proper books of account if he has not kept such books or accounts as are necessary to exhibit or explain his transactions and financial position in his trade or business, including a book or books containing entries from day to day in sufficient detail of all cash received and cash paid, and where the trade or business has involved dealings in goods, statements of annual stock-takings, and (except in the case of goods sold by way of retail trade to the actual consumer) accounts of all goods sold and purchased showing the buyers and sellers thereof in sufficient detail to enable the goods and the buyers and sellers thereof to be identified. In the case of books or accounts kept in the Chinese language a person shall, for the purposes of this section, be deemed not to have kept proper books of account if he has not kept such books or accounts as may be proved to be usual and necessary, for the purposes aforesaid, in the particular trade or business carried on by the bankrupt. (*Amended 76 of 1996 s. 72*)

[*cf. 1914 c. 59 s. 158 U.K.; 1926 c. 7 s. 7 U.K.*]