



PRACTICE AREA Step-by-step CHECKLIST

Bankruptcy

File reference:

DISCLAIMER This Checklist is only intended to provide a general overview of the matters that should be considered in managing your case/transaction. The information provided in this Checklist is not intended to be legal advice. Many factors may affect the applicability of any steps or procedures set out here to your case and consequently you should apply your own discretion or seek appropriate advice (where applicable) before relying on these procedures.

		Yes	No	Remarks
NOTE: THE STEPS SET OUT IN THIS CHECKLIST ARE ONLY FOR CASES WHERE THE JUDGMENT CREDITOR AND DEBTOR ARE RESIDENTS IN MALAYSIA. OTHERWISE, OTHER RULES IN RELATION TO ENDORSEMENTS, SERVICES ETC, ARE APPLICABLE .				
1.	Has the judgment been served on the debtor?			
2.	Before Bankruptcy Notice is issued, creditor must:			
	a. Produce to the Registrar an office copy of the judgment or order on which the notice is founded.			
	b. File the notice together with a request for issue.			
	c. Lodge sufficient number of copies of the Bankruptcy Notice to be sealed and issued for service.			
	Note: Where the Bankruptcy Notice is e-filed, only one copy needs to be e-filed. Otherwise, four copies are to be filed.			
3.	Has Bankruptcy Notice been issued?			
	a. Is Bankruptcy Notice in Form 5 of Bankruptcy Rules 1969?			
4.	Is Bankruptcy Notice still valid? ie three months from date of issue.			
5.	Is there service of Bankruptcy Notice? Either by:			
	a. Personal Service.			
	b. Substituted Service.			



My notes...





		Yes	No	Remarks
6.	Has Judgment Debtor responded in accordance with section 3(1)(i) of the Bankruptcy Act 1967 within seven days after date of personal service or date on which substituted service effected?			
a.	If yes, no bankruptcy.			
b.	If no, there is an act of bankruptcy. (Proceed to no 7 and 8 within six months of act of bankruptcy.)			
7	Have creditors petition been filed?			
a.	Must be verified by an affidavit.			
b.	Must be filed within six months from the act of bankruptcy together with receipt for the RM2,000 deposit paid to Insolvency Department.			
8.	Have creditors petition and affidavit varying the petition been served on the Judgment Debtor at least eight days before hearing of the petition?			
9.	Hearing of creditors petition before Registrar			
a.	Has the Judgment Debtor filed notice of intention to show cause?			
b.	Seven days before hearing, petitioner must serve on Director General of Insolvency ("DGI"):			
i	Original sealed judgment.			
ii	Original Bankruptcy Notice.			
iii	Copy of request to issue Bankruptcy Notice.			
iv	Copy of affidavit of service Bankruptcy Notice.			
v	Original Creditor's Petition.			
vi	Copy of affidavit verifying the Creditor's Petition.			
vii	All other pleadings and cause papers in the petition.			
10.	Registrar will issue:			
a.	Receiving Order; and			
b.	At the same time as making the Receiving Order, the Registrar shall adjudge the Judgment Debtor bankrupt (Adjudication Order) unless Judgment Debtor satisfies conditions in section 24(1) of the Bankruptcy Act 1967.			





Risk Management Tips:

1. Always have a checklist when handling a bankruptcy matter to avoid omission to file documents within the stipulated time frame.
2. Ensure no limitation periods have passed by implementing a daily “Follow-Up” or “Keep-In-View” system.
3. A status report folder should be updated for each and every file to indicate what has been completed and what needs to be completed. This would avoid miscommunication and failure to comply with procedures when the file is transferred to another lawyer or handled by more than one lawyer.
4. Consider recommending against initiating an action, or to seek settlement or other dispute resolution processes like arbitration, expert determination, conciliation or mediation.



My notes...

