

Superior Court of Justice  
 Bankruptcy Court Office (Ottawa)  
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# GUIDELINE FOR FILING DOCUMENTS WITH THE OTTAWA BANKRUPTCY COURT OFFICE

PROCESS TYPE	DOCUMENTS TO BE FILED BY TRUSTEE/SOLICITOR	COMMENTS
<b>1. Opening a file for an Application for Discharge of a Bankrupt</b>	<b>Opening a file for the Hearing of an Application for Discharge of a Bankrupt</b>	
	Where a trustee wishes to open a file for an application for discharge of a bankrupt, a trustee will file:	
	1. A copy of the Certificate of Appointment issued by the Official Receiver	<i>Bankruptcy and Insolvency Act (BIA) s. 49 and Bankruptcy and Insolvency General Rules (BIGR) rule 85 – Form 19</i> Note: In cases where a bankruptcy order has been issued, a Certificate of Filing a Bankruptcy Order will be filed instead of a Certificate of Appointment. In cases where a deemed assignment in bankruptcy is made, a Certificate of Assignment will be filed instead of a Certificate of Appointment ( <i>BIA s. 50.4(8), 50.4(11), 57, 61(2), 63(4) – Form 35, Form 39, Form 42 and Form 44</i> ).
	2. A copy of the Assignment for the General Benefit of Creditors	<i>BIA s. 49(1) and BIGR rule 87 – Form 21</i> Note: No assignment is filed in cases where a bankruptcy order has been issued and a deemed assignment in bankruptcy is made.
	3. A copy of the Statement of Affairs	<i>BIA s. 49(2), 158(d) and BIGR rule 87 – Form 79</i>
	4. A copy of the Monthly Income and Expense Statement of the Bankrupt, if applicable	<i>BIA s. 68, 102(3) – Form 65</i>
	5. A copy of the Report of Trustee on Bankrupt's Application for Discharge	<i>BIA s. 170(1), 170(2) – Form 82</i> Note: Additional documents, if provided, such as counselling certificates, budgets, affidavit of after-acquired income should be included in the 170 Report document.
	6. A copy of the Notice of Hearing for Bankrupt's Application for Discharge and Affidavit of Mailing (or Affidavit of Service)	<i>BIA s. 169(6) – Form 81</i>
7. A Disposition Sheet		

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	If the application for discharge is opposed, the trustee will file: 8. A copy of the Notice of Intended Opposition to Discharge of Bankrupt	<i>BIA</i> s. 168.2(1)(c) and <i>BIGR</i> rule 118 – Form 80
	9. Pay the appropriate fee in accordance with the <i>BIGR</i> Schedule of Fees - Part II – Fees Payable to Court Officers	Different fees apply depending on whether the file is a summary administration or an ordinary administration bankruptcy. Most files opened with the court to deal with an application for discharge of a bankrupt are summary administration files. However, an application for discharge of a bankrupt can apply to both summary administration files and ordinary administration files where the bankrupt is an individual.
	Note: All documents other than those prepared by the Office of the Superintendent of Bankruptcy (OSB) should have a backsheet, which includes the debtor's name, and the trustee's name and address (refer to Form 4C Backsheet in Part II of the <i>Rules of Civil Procedure (RCP)</i> ).	
	Notes: i. The "opening package" for a bankruptcy file consists of documents #1 to #4. These documents should be stapled together as one package in the order listed. ii. The "170 package" consists of the 170 Report, the Notice of Hearing, and the Notice of Intended Opposition (if applicable). The package should be stapled together, with the Notice of Intended Opposition on top, followed by the Notice of Hearing and the 170 Report. iii. The disposition sheet (and draft orders, if provided) are attached but not stapled to the 170 package. iv. A covering list is required which sets out the hearing date/time, file #'s/names, trustee's name, and type of matter (opposed/previous). v. Opposed discharge applications and applications for discharge of previous bankrupts are appearance matters scheduled on the Opposed Discharge List. The trustee is required to attend. The bankrupt is required to attend unless the opposition to discharge is withdrawn, or the matter is proceeding on consent; however an order may be granted without the attendance of the bankrupt. Where a bankrupt has previously been bankrupt on two or more occasions, the bankrupt is required to attend. vi. Creditor and/or OSB opposed discharge applications are scheduled on the judge's bankruptcy list. A realistic time estimate is required. All involved parties are to be canvassed to confirm availability on the hearing date.	
	<b>Filing Supplementary Reports on Bankrupt's Application for Discharge after the Hearing</b>	
	<b>A.</b> Where a Bankrupt has complied with the terms set out in a Conditional Order of Discharge, or a Bankrupt has complied with the terms in a Conditional and Suspended Order of Discharge and the period of suspension has elapsed, the Trustee may return the bankrupt's application for discharge to the court to request an Absolute Order of Discharge be issued.	

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	The trustee will file:	
	1. A Supplementary Report or an Affidavit (see Note (i) below)	Backsheet required.
	2. Two copies of the draft Absolute Order of Discharge	Ensure the correct format of a draft Absolute Order of Discharge is provided, i.e., that the bankrupt has complied with conditions and the period of suspension has elapsed, as applicable.
	<b>B.</b> Where an Application for Discharge of a Bankrupt was adjourned sine die or a disposition of No Order was made, the Trustee may return the Bankrupt's Application for Discharge to the Court for an order of discharge.	
	The trustee will file:	
	1. A Supplementary Report or an Affidavit (see Note (i) below)	Backsheet required.
	2. Two copies of the draft order of discharge (see Note (ii) below)	Both the affidavit and the draft order of discharge must indicate the date the bankrupt's application for discharge was previously adjourned sine die, or the date the disposition of "No Order" was made.
	<p>Notes:</p> <ul style="list-style-type: none"> <li>i. Where a period of more than five years has elapsed from the date of bankruptcy, the trustee is required to provide information as to surplus income from the date of bankruptcy to present, and the bankrupt is required to provide an affidavit as to earnings and after-acquired property and income from the date of bankruptcy to present.</li> <li>ii. Where a bankrupt was previously bankrupt or previously filed a proposal, information as to the date of the previous bankruptcy or proposal is to be indicated in the trustee's affidavit or supplementary report, and a draft Suspended Order of Discharge provided.</li> <li>iii. A supplementary report or an affidavit of trustee filed for a bankrupt's application for discharge is dealt with as an in-writing matter (no appearance required).</li> <li>iv. No date is indicated on the draft order for in-writing matters. The order will be dated when signed by the court official.</li> </ul>	
<b>2. Opening an Ordinary Administration File</b>	Where a trustee wishes to open an ordinary administration file, pursuant to <i>BIGR</i> rule 87, a trustee will file:	
	1. A copy of the Certificate of Appointment issued by the Official Receiver	<i>BIA</i> Sec. 49(4) and <i>BIGR</i> rule 85
	2. A copy of the Assignment for the General Benefit of Creditors	<i>BIA</i> s. 49(1), <i>BIGR</i> rule 87 – Form 21
	3. A copy of the Statement of Affairs	<i>BIA</i> s. 49(2) and 158(d) – Form 78 or Form 79 (as applicable)

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	4. A copy of the resolution of the board of directors authorizing the assignment where the Bankrupt is a corporation	<i>BIA</i> s. 49(1) (see commentary D§60(1)(iii) of the Annotated <i>BIA</i> Houlden, Morawetz, & Sarra)
	5. A copy of the Monthly Income and Expense Statement of the Bankrupt (if applicable)	<i>BIA</i> s. 68 and s. 102(3) – Form 65
	6. Minutes of the first meeting of creditors	<i>BIGR</i> rule 87(c)
	7. Pay the appropriate fee in accordance with the <i>BIGR</i> Schedule of Fees - Part II – Fees Payable to Court Officers	
	Note: All documents other than those prepared by the Office of the Superintendent of Bankruptcy should have a backsheet, which includes the debtor's name, and the trustee's name and address.	
<p><b>Change of Status:</b> Pursuant to s. 49(8) of the <i>BIA</i>, the Official Receiver can convert an estate from summary administration to ordinary administration. Where a summary administration file has already been opened with the court, and the estate is subsequently converted to an ordinary administration, a trustee will file:</p> <ol style="list-style-type: none"> <li>1. A copy of the Application to Change the Status of the Estate signed by the Official Receiver and/or a copy of the amended Certificate of Appointment.</li> <li>2. Pay the difference in fees between a summary administration and ordinary administration file.</li> </ol>		
<b>3. Opening a Division 1 Proposal File</b>	Where a trustee wishes to open a Division I Proposal file, pursuant to <i>BIGR</i> rule 90(1), a trustee will file:	
	1. A copy of the Certificate of Filing of a Proposal and a copy of the Proposal - OR - A copy of the Notice of Intention to Make a Proposal and Consent of Trustee to Act	<i>BIA</i> s. 62(1)  <i>BIA</i> s. 50.4(1) – Form 33 <i>BIA</i> s. 50.4(1)(b)
	2. A copy of the Cash-Flow Statement	<i>BIA</i> s. 50(6)(a) or s. 50.4(2)(a)
	3. A copy of the Trustee's Report on Cash-Flow	<i>BIA</i> s. 50(6)(b) or s. 50.4(2)(b) – Form 29
	4. A copy of the Insolvent Person's Report on Cash-Flow	<i>BIA</i> s. 50(6)(c) or s. 50.4(2)(c) – Form 30
	5. A copy of the material adverse change report , if applicable	<i>BIA</i> s. 50(10)(a)(ii) or s. 50.4(7)(b)(ii)

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	6. The notice of meeting of creditors, if applicable	<i>BIA s. 51(1)(a)</i>
	7. Pay the appropriate fee in accordance with the <i>BIGR</i> Schedule of Fees - Part II – Fees Payable to Court Officers	
	Note: All documents other than those prepared by the Office of the Superintendent of Bankruptcy should have a backsheet, which includes the debtor's name, and the trustee's name and address.	
<b>4. Application for Court Approval of a Division I Proposal</b>	Where a trustee (or solicitor on behalf of a trustee) wishes to apply for court approval of a Division I Proposal, a trustee/solicitor will file:	
	1. A Report of Trustee on Proposal and a Notice of Hearing of Application for Court Approval of Proposal – OR – A motion record	<i>BIA s. 58(d)</i> and <i>s. 59(1)</i> – Form 40 <i>BIA s. 58(b)</i> – Form 40.1
	2. Provide two copies of the draft order	Ensure a copy of the proposal is attached to each draft order. The date of the hearing and name of the presiding official should be indicated on the draft order.
	Note: All documents other than those prepared by the Office of the Superintendent of Bankruptcy should have a backsheet, which includes the debtor's name, and the trustee's/lawyer's name and address.	
	Notes:	
	i. There should be an existing file already opened with the court for a Division I proposal. If not, the fee and documents required to open a Division I Proposal file (refer to Process Type #3) must be submitted along with the Report of Trustee on Proposal or motion record.	
	ii. Applications and/or Motions for Court Approval of a Proposal are scheduled as appearance matters on the Regular Bankruptcy List.	
<b>5. Application for Bankruptcy Order</b>	<b>Issuing an Application for Bankruptcy Order</b>	
	Where a creditor/applicant wishes to petition a debtor into bankruptcy, the creditor/applicant will file in duplicate:	
	1. An Application for Bankruptcy Order	<i>BIA s. 43(1)</i> – Precedent 18
	2. An Affidavit of Truth of Statements or Affidavit of Verification	<i>BIA s. 43(3)</i> – Precedent 20

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	3. A Notice of Hearing	<i>BIGR</i> rule 70(1) – Precedent 19; An Application for Bankruptcy Order must be served at least 10 days before the hearing. The Notice of Hearing may be on the back page of the Application or a separate document.
	4. Pay the appropriate fee in accordance with the <i>BIGR</i> Schedule of Fees - Part II – Fees Payable to Court Officers	
	Note: All documents other than those prepared by the Office of the Superintendent of Bankruptcy should have a backsheet, which includes the debtor's name, and the filing party's name and address.	
	Note: The file number for the Application for Bankruptcy Order is a file number issued by the Official Receiver for the application. If a bankruptcy order issues, a new file number will be assigned by the Official Receiver for the ordinary administration file.	
	<b>Hearing of an Application for Bankruptcy Order</b>	
	At least two (2) days before the hearing date, the creditor/applicant will: 1. File the original Application for Bankruptcy Order and an affidavit of service	<i>BIGR</i> rule 72
	Where a debtor wishes to dispute the application, at least two (2) days before the hearing date, the debtor will: 1. File a Notice Disputing Application and an affidavit of service 2. Pay the appropriate fee in accordance with the <i>BIGR</i> Schedule of Fees - Part II – Fees Payable to Court Officers	<i>BIGR</i> rule 74 – Precedent 29
	<b>After the Hearing of an Application for Bankruptcy Order – Opening an Ordinary Administration File</b>	
If a bankruptcy order has been signed, the order is sealed and returned to the creditor/applicant. The file remains active until further documents are filed by the trustee.	<i>BIGR</i> rule 83(1) - The creditor/applicant must deliver no later than two days after the bankruptcy order is made a copy of the order to the trustee.	

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	<p>In order to open an ordinary administration file after the bankruptcy order has been signed, the trustee will file with the court:</p> <ol style="list-style-type: none"> <li>1. A copy of the Certificate of Filing a Bankruptcy Order issued by the Official Receiver</li> <li>2. A copy of the Statement of Affairs</li> </ol>	<p><i>BIGR</i> rule 83(2) – Within 2 days after receiving a copy of the bankruptcy order, the trustee shall serve a copy on the bankrupt and send a copy to the OSB Division Office.            Note: A new file number is assigned by the Official Receiver for the ordinary administration file.</p>
	<p>Note: No fee is required pursuant to paragraph 2(b) of the <i>BIGR</i> Schedule of Fees - Part II – Fees Payable to Court Officers.</p>	
	<p><b>Withdrawal of Application for Bankruptcy Order</b></p>	
	<p>If a creditor/applicant wishes to withdraw the Application for Bankruptcy Order, the creditor/applicant will:</p> <ol style="list-style-type: none"> <li>1. File a motion for leave to withdraw the Application for Bankruptcy Order</li> <li>2. Provide two copies of a draft order</li> </ol>	<p><i>BIA</i> s. 43(14)</p>
	<p>If an order is granted for leave to withdraw the Application for Bankruptcy Order, the creditor/applicant will:</p> <ol style="list-style-type: none"> <li>1. File a notice of withdrawal and affidavit of service</li> </ol>	
	<p>Note: It is usual to obtain an order of dismissal, not an order giving leave to withdraw.</p>	
<p><b>6. Taxation of Bill of Costs</b></p>	<p>Where a solicitor or trustee wishes to have a solicitor's Bill of Costs taxed, a solicitor/trustee will file:</p>	
	<ol style="list-style-type: none"> <li>1. Two copies of the solicitor's Bill of Costs (along with a brief description of the nature of the services rendered)</li> </ol>	<p><i>BIGR</i> rule 19            A backsheet is required.</p>
	<ol style="list-style-type: none"> <li>2. A declaration signed by the trustee that               <ul style="list-style-type: none"> <li>• The trustee has examined the bill</li> <li>• The services have been duly authorized and duly rendered</li> <li>• The charges are reasonable in the trustee's opinion</li> </ul> </li> </ol>	<p><i>BIGR</i> rule 20 – Precedent No. 85            Note: The declaration may be attached to the Bill of Costs or may be filed as a separate document.</p>
	<ol style="list-style-type: none"> <li>3. Pay the appropriate fee in accordance with the <i>BIGR</i> Schedule of Fees - Part II – Fees Payable to Court Officers</li> </ol>	<p>Paragraph 4(h)</p>

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	Notes: <ol style="list-style-type: none"> <li>i. Rule 18 of the <i>BIGR</i> states that all bills of costs for legal services exceeding \$2,500 <i>in aggregate</i> must be taxed.</li> <li>ii. The bankruptcy and/or proposal file number and name of the debtor must be indicated on the Bill of Costs. There should be an area on the document which indicates "Assessed and allowed at \$-----" followed by a date (left blank) and a signature line for the court official.</li> <li>iii. A taxation of a Solicitor's Bill of Costs is usually dealt with as an in-writing matter (no appearance required).</li> </ol>		
<b>7. Taxation of Trustee's Statement of Receipts and Disbursements</b>	Where a trustee wishes to have his/her accounts taxed, the trustee will file:		
	1. A copy of the Superintendent's Letter of Comments	<i>BIA</i> s. 152(4)	
	2. Two (2) copies of the Final Statement of Receipts and Disbursements - see Note (iii) below	<i>BIA</i> s. 152(1), 152(2) – Form 12	
	3. A copy of the Dividend Sheet, if applicable	<i>BIA</i> s. 152(2)	
	4. An Affidavit or Report of the Trustee in support of the Trustee's remuneration, as applicable	It is suggested that the Trustee file the appropriate records of time and details of service to support the remuneration claimed.	
	Note: All documents other than those prepared by the Office of the Superintendent of Bankruptcy should have a backsheet, which includes the debtor's name, and the trustee's name and address.		
Notes: <ol style="list-style-type: none"> <li>i. There should be an existing file opened with the court for an ordinary administration file. If not, the fee and the documents required to open an ordinary administration file (see Process Type #2) must be submitted along with the taxation documents.</li> <li>ii. Taxations are scheduled as appearance matters on the Regular Bankruptcy List. The trustee is required to attend.</li> <li>iii. The wording of the court's approval of the trustee's fees and disbursements on the Statement of Receipts and Disbursements should be set out as follows:               <p style="text-align: center;">Trustee's fees taxed at \$ _____, inclusive of H.S.T., and disbursements taxed at \$ _____, inclusive of H.S.T.,                  for a total of \$ _____, this _____ day of _____, 20.....</p> <p style="text-align: center;">_____ (name of presiding official)</p> </li> </ol>			

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<b>8. Application of Trustee for Discharge</b>	Where a trustee wishes to be discharged, a trustee will file:	
	1. An Application of Trustee for Discharge	<i>BIGR</i> rule 61(1)(a) – Form 10
	2. An Affidavit of Trustee	<i>BIGR</i> rule 61(2)(a) to (h) Rule 61(2) provides that the Trustee must satisfy the Court as to s. (a) to (h). The Court considers the evidence before it, and evidence is provided by affidavit. Therefore, the affidavit should cover all the items set out in rule 61(2)(a) to (h).
	3. A Notice of Final Dividend and Application for Discharge of Trustee	<i>BIGR</i> rule (61)(1)(b), <i>BIA</i> s. 152(5)(c) – Form 11
	4. A copy of the taxed Final Statement of Receipts and Disbursements	<i>BIGR</i> rule 61(1)(b), <i>BIA</i> s. 152(5)(a)
	5. A copy of the Dividend Sheet, if applicable	<i>BIGR</i> rule 61(1)(b), <i>BIA</i> s. 152(5)(b)
	6. Two (2) copies of the draft Order of Discharge of Trustee	<i>BIA</i> Precedent No. 15
	Note: All documents other than those prepared by the Office of the Superintendent of Bankruptcy should have a backsheet, which includes the debtor's name, and the trustee's name and address.	
Note: An Application of Trustee for Discharge is usually dealt with as an in-writing matter (no appearance required). If an objection to the trustee's application for discharge is filed by a party, then a hearing date will be scheduled on the Regular Bankruptcy List and the parties will appear.		
<b>9. Motions</b>	Rule 11 of the <i>BIGR</i> states that, subject to the <i>BIA</i> rules, every application to the court must be made by motion unless the court orders otherwise. Generally, materials should be filed in accordance with the <i>Rules of Civil Procedure</i> (rule 37) unless the procedure stipulated is inconsistent with the <i>BIA</i> or the <i>BIGR</i> . Where an inconsistency arises, the procedure set out in the <i>BIA</i> or <i>BIGR</i> must be followed. A motion may be made by a party with or without notice to another party depending on the nature of the motion and the circumstances involved ( <i>RCP</i> rule 37.07(1)). Motions may be made by appearance, with or without notice, or in writing. All motions must be heard in the court location where the action was commenced or to which it has been transferred ( <i>RCP</i> rule 37.03(1)).	
	Where a party wishes to file a motion, and plans on giving notice of the motion to other persons/parties, the moving party will file:	
	1. A Notice of Motion or a Motion Record, with proof of service (see Note (i) below for filing timelines)	<i>RCP</i> rule 37.06, rule 37.10(1) – Form 37A

**Note: The information contained in this document is an overview of the relevant legislation and rules of procedure. It is not intended to be a substitute for the *Bankruptcy and Insolvency Act*, the *Bankruptcy and Insolvency General Rules*, and the *Rules of Civil Procedure*. Nothing contained, expressed or implied in this document is intended as, or should be taken as, legal advice.**

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# GUIDELINE FOR FILING DOCUMENTS WITH THE OTTAWA BANKRUPTCY COURT OFFICE

PROCESS TYPE	DOCUMENTS TO BE FILED BY TRUSTEE/SOLICITOR	COMMENTS
	2. A Factum (if required) with proof of service	Factums are required for long motions (over 1 hour) and encouraged for all other motions unless otherwise directed by a judge; Refer to the Consolidated Provincial Practice Direction Part II Civil & Family Motions Procedure on the Ontario Courts website at: <a href="http://www.ontariocourts.ca/scj/practice/practice-directions/provincial/#A_Factums_for_Motions">http://www.ontariocourts.ca/scj/practice/practice-directions/provincial/#A_Factums_for_Motions</a>
	3. A Requisition for Application/Motion	Non-prescribed form. If required, court staff can provide a copy of the form. A copy of the form is also available on the County of Carleton Law Association website at: <a href="https://www.ccla-abcc.ca/page/CivilLitigation?">https://www.ccla-abcc.ca/page/CivilLitigation?</a>
	4. Pay the appropriate fee in accordance with the <i>BIGR</i> Schedule of Fees Part II – Fees Payable to Court Officers	<a href="http://laws-lois.justice.gc.ca/eng/regulations/C.R.C.,_c._368/page-12.html#h-51">http://laws-lois.justice.gc.ca/eng/regulations/C.R.C.,_c._368/page-12.html#h-51</a>
	Where a Motion is made with notice, a responding party will file:	
	1. A Responding Motion Record (optional) with proof of service	All responding materials are to be filed with the court at least four (4) days before the hearing <i>date</i>
	2. A Factum (if required) with proof of service	
	Notes: <ol style="list-style-type: none"> <li>i. <b>FILING MOTION MATERIAL WITH THE COURT: Notwithstanding rule 13 of the <i>BIGR</i>, any party who schedules a hearing date for a motion must file the motion material with the court office at least four (4) business days prior to the hearing date. If the material is not filed as aforesaid, the matter will not be heard on the scheduled date.</b></li> <li>ii. A motion record shall have a blue backsheet pursuant to rules 4.02(3) and 4.07(1) of the <i>Rules of Civil Procedure (RCP)</i>.</li> <li>iii. For a motion made on notice, a Motion Confirmation Form (MCF) is required three days before the hearing date pursuant to rule 37.10.1(1) of the <i>RCP</i>.</li> <li>iv. A MCF is not required for short motions (15 minutes or less) or for an Application/Motion for Court Approval of a Proposal.</li> <li>v. Motions to be heard by a Registrar in Bankruptcy are scheduled on the Regular Bankruptcy List. Motions to be heard by a judge are scheduled on the judge's bankruptcy list.</li> </ol>	

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