



**Bankruptcy and Insolvency General Rules (C.R.C., c. 368)**

Enabling Statute: [Bankruptcy and Insolvency Act](#)

Regulation current to September 11th, 2010

Attention: See coming into force provision and notes, where applicable.

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C.R.C., c. 368

### **BANKRUPTCY AND INSOLVENCY ACT**

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BANKRUPTCY AND INSOLVENCY GENERAL RULES

#### **INTERPRETATION**

**1.** The definitions in this section apply in these Rules.

“Act” means the *Bankruptcy and Insolvency Act*. (*Loi*)

“business hours”, in relation to a Division Office, means the hours during which the Division Office is open to the public from Monday to Friday, holidays excepted, as posted by that Division Office. (*heures d’ouverture*)

“directive” means a directive issued by the Superintendent pursuant to subsection 5(4) of the Act. (*instructions*)

“Division Office” means the office of the Superintendent, Department of Industry, for the bankruptcy division in which the proceedings were commenced. (*bureau de division*)

“judge” means a judge of a court having jurisdiction in bankruptcy under sections 183 to 186 of the Act. (*juge*)

“petition” [Repealed, SOR/2007-61, s. 1]

“registrar” means a person appointed or assigned as a registrar in bankruptcy under section 184 of the Act. (*registraire*)

“tariff” means the tariff of costs set out in the schedule. (*tarif*)

“taxing officer” means the registrar or other officer appointed or assigned under section 184 of the Act for the taxation or fixing of costs or the passing of accounts. (*fonctionnaire taxateur*)

SOR/92-579, s. 2; SOR/98-240, s. 1; SOR/2007-61, s. 1.

**1.1** A stock exchange that is regulated by an Act of Parliament or of the legislature of a province is prescribed for the purposes of the definition “income trust” in section 2 of the Act.

SOR/2009-218, s. 1.

## GENERAL

**2.** Documents that by the Act are to be prescribed must be in the form prescribed, with any modifications that the circumstances require and subject to any deviations permitted by section 32 of the *Interpretation Act*, and must be used in proceedings under the Act.

SOR/92-579, s. 3; SOR/98-240, s. 1; SOR/2007-61, s. 2(E).

**3.** In cases not provided for in the Act or these Rules, the courts shall apply, within their respective jurisdictions, their ordinary procedure to the extent that that procedure is not inconsistent with the Act or these Rules.

SOR/98-240, s. 1.

**4.** If a period of less than six days is provided for the doing of an act or the initiating of a proceeding under the Act or these Rules, calculation of the period does not include Saturdays or holidays.

SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

**5.** (1) Subject to subsection (2), a notice or other document that is received by a Division Office outside of its business hours is deemed to have been received

- (a) on the next business day of that Division Office, if it was received
  - (i) between the end of business hours and midnight, local time, on a business day, or
  - (ii) on a Saturday or holiday; or
- (b) at the beginning of business hours of that Division Office, if it was received between midnight and the beginning of business hours, local time, on a business day.

(2) Subsection (1) does not apply to documents related to proceedings under Part III of the Act that are filed by facsimile.

SOR/78-389, s. 1; SOR/92-579, s. 4; SOR/98-240, s. 1; SOR/2005-284, s. 1.

**6.** (1) Unless otherwise provided in the Act or these Rules, every notice or other document given or sent pursuant to the Act or these Rules must be served, delivered personally, or sent by mail, courier, facsimile or electronic transmission.

(2) Unless otherwise provided in these Rules, every notice or other document given or sent pursuant to the Act or these Rules

- (a) must be received by the addressee at least four days before the event to which it relates, if it is served, delivered personally, or sent by facsimile or electronic transmission; or

- (b) must be sent to the addressee at least 10 days before the event to which it relates, if it is sent by mail or by courier.

(3) A trustee, receiver or administrator who gives or sends a notice or other document shall prepare an affidavit, or obtain proof, that it was given or sent, and shall retain the affidavit or proof in their files.

(4) The court may, on an *ex parte* application, exempt any person from the application of subsection (2) or order any terms and conditions that the court considers appropriate, including a change in the time limits.

SOR/98-240, s. 1; SOR/2007-61, ss. 3(E), 63(E).

**7.** An assignment, proposal or notice of intention that is respectively offered, lodged or filed pursuant to the Act must be offered, lodged or filed by service, personal delivery, mail, courier, facsimile or electronic transmission.

SOR/78-389, s. 1; SOR/98-240, s. 1.

**8.** An interim receiver, a trustee, an administrator of a consumer proposal, an official receiver or a representative of the Superintendent is not required to be represented by a barrister or solicitor or, in the Province of Quebec, an advocate when appearing before a registrar on any court proceeding under the Act.

SOR/98-240, s. 1; SOR/2007-61, s. 4(E).

### **COURT PROCEEDINGS**

**9.** (1) All proceedings used in court must be dated and entitled in the name of the court in which they are used, together with the words "in Bankruptcy and Insolvency".

(2) Every document used in the filing of a bankruptcy application or used after the filing of an assignment must be entitled "In the Matter of the Bankruptcy of...".

(3) Every document used in the filing of a proposal before bankruptcy must be entitled "In the Matter of the Proposal of...".

(4) Every document used in the course of a receivership must be entitled "In the Matter of the Receivership of...".

(5) Unless the Chief Justice, Associate Chief Justice or Commissioner, as the case may be, referred to in section 184 of the Act otherwise directs, every document that is required to be filed in court must first be filed at the office of the registrar.

(6) If the court deems necessary that any notice be sent to the Superintendent in any proceeding before it, a copy of that notice shall be sent to the Division Office.

SOR/98-240, s. 1; SOR/2007-61, s. 63(E), 64.

**10.** If any proceedings are transferred from one court to another court under subsection 187(7) or (10) of the Act, the registrar of the former court shall send the file to the registrar of the latter court, with a copy of the order of transfer attached to it.

SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

### **MOTIONS**

**11.** Subject to these Rules, every application to the court must be made by motion unless the court orders otherwise.

SOR/98-240, s. 1.

**12.** The Superintendent may intervene in any application to the court by filing a notice of intervention with the court.

SOR/98-240, s. 1.

**13.** Subject to any order of the court given in exigent circumstances, a party who makes a motion must, at least one day before the day set for the hearing of the motion, file with the court

(a) the original of the notice of motion, or the motion, as the case may be;

(b) every affidavit in support of the notice of motion or the motion, as the case may be; and

(c) proof of service, if any, of the documents described in paragraphs (a) and (b).

SOR/98-240, s. 1; SOR/2005-284, s. 2.

### **WITNESSES AND DEPOSITIONS**

- 14.** (1) A party to any court proceedings may, with leave of the court, examine the other party or any other person and require them to produce documents.  
(2) A party to any court proceedings may, with leave of the court, require the attendance of any person for examination on an affidavit that the person filed with the court.  
(3) An application for leave of the court under subsection (1) or (2) may be made *ex parte*.

SOR/98-240, s. 1.

### **SEARCH, SEIZURE AND ARREST**

- 15.** A warrant issued under the Act, including a warrant of seizure and a search warrant, must be executed by the executing officer.

SOR/98-240, s. 1; SOR/2007-61, s. 5(E).

- 16.** (1) A bankrupt or other person who is apprehended under section 166 of the Act shall be kept in the place of custody set out in the warrant, pending the order of the court.

(2) As soon as a bankrupt or other person has been handed over to the authority at a place of custody, the person who made the apprehension under section 166 of the Act or the arrest under section 168 of the Act shall so report to the court.

(3) After the report mentioned in subsection (2) is made, the court may make an order fixing a time and place for the examination of the bankrupt or other person by the official receiver, if section 166 of the Act applies, or by the court, if section 168 of the Act applies.

(4) As soon as a time and place are set for the examination of a bankrupt or other person by the official receiver pursuant to subsection (3), the registrar shall so notify the official receiver and the trustee.

(5) As soon as a time and place are set for the examination of a bankrupt, other than an examination referred to in subsection (4), the registrar shall so notify the trustee and the person who applied for the examination.

SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

- 17.** Subject to any contrary order of the court, a person in possession or control of any property seized under the Act or these Rules shall immediately deliver it to the trustee or the interim receiver.

SOR/98-240, s. 1; SOR/2007-61, s. 6(E).

### **COSTS AND TAXATION**

- 18.** All bills of costs for legal services – other than those that do not exceed \$2,500 in aggregate, excluding applicable federal and provincial taxes – must be taxed by the taxing officer.

SOR/98-240, s. 1; SOR/2009-218, s. 2.

- 19.** A bill of costs must describe, in a fair, reasonable and detailed manner, the nature of the legal services rendered.

SOR/98-240, s. 1.

- 20.** The bill of costs shall not be taxed unless the trustee is represented at the taxation or the bill of costs has attached to it a declaration, signed by the trustee, stating that

(a) [Repealed, SOR/2009-218, s. 3]

(b) the services have been duly authorized and duly rendered; and

(c) the charges are reasonable in the trustee's opinion.

SOR/98-240, s. 1; SOR/2009-218, s. 3.

**21.** In determining the amount of costs to be allowed, the taxing officer shall determine whether

(a) the legal services have been duly rendered;

(b) the charges are reasonable and, if applicable, are in accordance with the tariff;

(c) the legal services rendered are accounted for, and are not services that should have been rendered by the trustee; and

(d) the legal services have been authorized and approved in accordance with the Act, if the Act so requires.

SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

**22.** When a bill of costs has been taxed, the taxing officer shall make a statement to that effect on the bill and shall sign that statement, and a bill of costs so signed has the same effect as a judgment of the court and may be enforced in the same manner as a judgment.

SOR/98-240, s. 1.

**23.** The court may, on *ex parte* application by a trustee, order a barrister or solicitor or, in the Province of Quebec, an advocate to submit a bill of costs to the trustee, or to bring the bill of costs into court to be taxed, and, if the barrister, solicitor or advocate fails to comply, the court may, on *ex parte* application by the trustee, order that the trustee distribute the proceeds of the estate that the trustee possesses without regard to the barrister, solicitor or advocate's bill of costs.

SOR/98-240, s. 1; SOR/2007-61, s. 7.

**24.** (1) The barrister or solicitor or, in the Province of Quebec, the advocate shall give to the trustee, to any other person who is liable for payment of the bill of costs and, on request, to the Division Office, a notice of the time and place of the taxation, at least 10 days before the day set for the taxation.

(2) A certified copy of the bill of costs to be presented for taxation must be attached to the notice referred to in subsection (1).

SOR/98-240, s. 1; SOR/2007-61, s. 8.

**25.** (1) A decision of a taxing officer on the taxation of a bill of costs may be appealed to the court if a notice stating the grounds of appeal is given to the opposite party and the Division Office within 10 days after the day of the decision.

(2) The judge who hears the appeal may retax the bill of costs as if it were being taxed for the first time.

SOR/98-240, s. 1.

**26.** [Repealed, SOR/2009-218, s. 4]

### **FEES OF COURT OFFICERS**

**27.** If the amount of the fees payable to a court officer is contested, the judge shall fix the amount.

SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

**28.** Fees payable to a registrar under these Rules belong to Her Majesty in right of the province for which the registrar was appointed.

SOR/98-240, s. 1.

**29.** [Repealed, SOR/2005-284, s. 3]

### **APPEALS FROM DECISIONS OF THE REGISTRAR**

- 30.** (1) An appeal from an order or decision of the registrar must be made by motion to a judge.
- (2) A notice of motion or a motion, as the case may be, must be filed at the office of the registrar and served on the other party within 10 days after the day of the order or decision appealed from, or within such further time as the judge stipulates.
- (3) The notice of motion or the motion must set out the grounds of the appeal.
- SOR/98-240, s. 1.

### **APPEAL TO COURT OF APPEAL**

- 31.** (1) An appeal to a court of appeal referred to in subsection 183(2) of the Act must be made by filing a notice of appeal at the office of the registrar of the court appealed from, within 10 days after the day of the order or decision appealed from, or within such further time as a judge of the court of appeal stipulates.
- (2) If an appeal is brought under paragraph 193(e) of the Act, the notice of appeal must include the application for leave to appeal.
- SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

- 32.** The registrar of the court appealed from shall transmit to the court of appeal the notice of appeal and the file.
- SOR/98-240, s. 1.

### **OFFICIAL RECEIVER**

- 33.** The official receiver may request instructions from the registrar or, if the official receiver is the registrar, from the judge, in case of doubt respecting any matter arising out of the Act, these Rules or a directive.
- SOR/98-240, s. 1.

### **CODE OF ETHICS FOR TRUSTEES**

- 34.** Every trustee shall maintain the high standards of ethics that are central to the maintenance of public trust and confidence in the administration of the Act.
- SOR/98-240, s. 1.
- 35.** For the purposes of sections 39 to 52, "professional engagement" means any bankruptcy or insolvency matter in respect of which a trustee is appointed or designated to act in that capacity pursuant to the Act.
- SOR/98-240, s. 1.
- 36.** Trustees shall perform their duties in a timely manner and carry out their functions with competence, honesty, integrity and due care.
- SOR/98-240, s. 1.
- 37.** Trustees shall cooperate fully with representatives of the Superintendent in all matters arising out of the Act, these Rules or a directive.
- SOR/78-389, s. 2; SOR/98-240, s. 1.
- 38.** Trustees shall not assist, advise or encourage any person to engage in any conduct that the trustees know, or ought to know, is illegal or dishonest, in respect of the bankruptcy and insolvency process.
- SOR/98-240, s. 1.
- 39.** Trustees shall be honest and impartial and shall provide to interested parties full and accurate information as required by the Act with respect to the professional engagements of the trustees.

SOR/81-646, s. 2; SOR/98-240, s. 1.

**40.** Trustees shall not disclose confidential information to the public concerning any professional engagement, unless the disclosure is

(a) required by law; or

(b) authorized by the person to whom the confidential information relates.

SOR/81-646, s. 3; SOR/98-240, s. 1.

**41.** Trustees shall not use any confidential information that is gathered in a professional capacity for their personal benefit or for the benefit of a third party.

SOR/98-240, s. 1.

**42.** Trustees shall not purchase, directly or indirectly,

(a) property of any debtor for whom they are acting with respect to a professional engagement; or

(b) property of any estates in respect of which the Act applies, for which they are not acting, unless the property is purchased

(i) at the same time as it is offered to the public,

(ii) at the same price as it is offered to the public, and

(iii) during the normal course of business of the bankrupt or debtor.

SOR/98-240, s. 1.

**43.** (1) Subject to subsection (2), if trustees have a responsibility to sell property in connection with a proposal or bankruptcy, they shall not sell the property, directly or indirectly,

(a) to their employees, agents or mandataries, or persons not dealing at arms' length with the trustees;

(b) to other trustees or, knowingly, to employees of other trustees; or

(c) to related persons of the trustees or, knowingly, to related persons of the persons referred to in paragraph (a) or (b).

(2) If trustees have a responsibility to act in accordance with subsection (1), they may sell property in connection with a proposal or bankruptcy to the persons set out in paragraph (1)(a), (b) or (c), if the property is offered for sale

(a) at the same time as it is offered to the public;

(b) at the same price as it is offered to the public; and

(c) during the normal course of business of the bankrupt or debtor.

SOR/98-240, s. 1; SOR/2007-61, ss. 9(E), 63(E).

**44.** Trustees who are acting with respect to any professional engagement shall avoid any influence, interest or relationship that impairs, or appears in the opinion of an informed person to impair, their professional judgment.

SOR/98-240, s. 1.

**45.** Trustees shall not sign any document, including a letter, report, statement, representation or financial statement that they know, or reasonably ought to know, is false or misleading, and shall not associate themselves with such a document in any way, including by adding a disclaimer of responsibility after their signature.

SOR/98-240, s. 1; SOR/2005-284, s. 4.

**46.** Trustees may transmit information that they have not verified, respecting the financial affairs of a bankrupt or debtor, if

(a) the information is subject to a disclaimer of responsibility or an explanation of the origin of the information; and

(b) the transmission of the information is not contrary to the Act, these Rules or any directive.

SOR/98-240, s. 1.

**46.1** [Repealed, SOR/98-240, s. 1]

**47.** Trustees shall not engage in any business or occupation that would compromise their ability to perform any professional engagement or that would jeopardize their integrity, independence or competence.

SOR/98-240, s. 1.

**48.** Trustees who hold money or other property in trust shall

(a) hold the money or property in accordance with the laws, regulations and terms applicable to the trust; and

(b) administer the money or property with due care, subject to the laws, regulations and terms applicable to the trust.

SOR/98-240, s. 1.

**49.** Trustees shall not, directly or indirectly, pay to a third party a commission, compensation or other benefit in order to obtain a professional engagement or accept, directly or indirectly from a third party, a commission, compensation or other benefit for referring work relating to a professional engagement.

SOR/98-240, s. 1.

**50.** Trustees shall not obtain, solicit or conduct any engagement that would discredit their profession or jeopardize the integrity of the bankruptcy and insolvency process.

SOR/98-240, s. 1.

**51.** Trustees shall not, directly or indirectly, advertise in a manner that

(a) they know, or should know, is false, misleading, materially incomplete or likely to induce error; or

(b) unfavourably reflects on the reputation or competence of another trustee or on the integrity of the bankruptcy and insolvency process.

SOR/98-240, s. 1.

**52.** Trustees, in the course of their professional engagements, shall apply due care to ensure that the actions carried out by their employees, agents or mandataries or any persons hired by the trustees on a contract basis are carried out in accordance with the same professional standards that those trustees themselves are required to follow in relation to that professional engagement.

SOR/98-240, s. 1; SOR/2007-61, s. 10(E).

**53.** Any complaint that relates to a contravention of any of sections 36 to 52 must be sent to the Division Office in writing.

SOR/98-240, s. 1.

### **APPOINTMENT AND SUBSTITUTION OF TRUSTEES**

**54.** A certificate of the official receiver, or a certified copy of it, is admissible in any proceeding under the Act as evidence of the appointment or substitution of a trustee, without proof of the authenticity of the signature or of the official character of the signatory.

SOR/98-240, s. 1; SOR/2007-61, s. 11(E).

**54.1 to 54.49** [Repealed, SOR/98-240, s. 1]

### **DUTIES OF TRUSTEES**

**55.** A trustee who is appointed pursuant to subsection 41(11) of the Act shall notify the Division Office of the appointment, in writing, within 10 days after the appointment.

SOR/98-240, s. 1.

**56.** A former trustee who is to pass the accounts before the court in accordance with subsection 36(1) of the Act shall make an application to the court and attach to it an affidavit in prescribed form, and shall send a notice in prescribed form, accompanied by a copy of the statement of receipts and disbursements, specifying the time and place set for passing the accounts, to the following persons:

- (a) every creditor whose claim has been proved;
- (b) the registrar;
- (c) the bankrupt;
- (d) the substituted trustee; and
- (e) a representative of the Division Office.

However, the court may order that the notice is not required to be given to the persons referred to in paragraph (a).

SOR/92-579, s. 7; SOR/98-240, s. 1.

**57.** If a bankrupt who is being examined pursuant to subsection 161(1) of the Act cannot speak fluently in the official language in which the examination is being conducted, the trustee shall arrange for the services, at the examination, of an interpreter approved by the official receiver.

SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

### **REMUNERATION OF TRUSTEES**

**58.** (1) Unless the court orders otherwise, the remuneration of a trustee is deemed to take into account all services performed by the trustee and by the trustee's partners and employees.

(2) In taxing the accounts of a trustee pursuant to section 152 of the Act, the taxing officer shall tax disbursements at the rates provided by the tariff.

(3) A trustee's disbursements do not include the indirect costs of the trustee's facilities or premises.

(4) The expenses incurred by a trustee for the services of an interpreter referred to in section 57 and subsection 108(2) are calculated, at the time of taxation, at a rate that the taxing officer deems reasonable.

(5) The taxing officer shall determine the disbursements for which the trustee is entitled to be repaid in accordance with this section.

SOR/98-240, s. 1; SOR/2005-284, s. 5; SOR/2009-218, s. 5.

**58.1** (1) For the purposes of section 156.1 of the Act, the amount required to be paid under the agreement must not be more than \$1,800.

(2) Subject to section 136 of the Act, money from the estate of the bankrupt shall be applied to satisfy the amount to be paid under the agreement.

(3) The trustee shall provide the Superintendent and the bankrupt with a signed copy of the agreement immediately after it is entered into.

SOR/2009-218, s. 6.

### **PRESCRIBED CIRCUMSTANCES FOR OPERATION OF PARAGRAPH 67(1)(B.1) OF ACT**

**59.** (1) A goods and services tax credit payment is not comprised in the property of the bankrupt for the purpose of paragraph 67(1)(b.1) of the Act if a dividend is available to the creditors without taking that payment into account.

(2) If, in order for a dividend to be available to the creditors, it would be necessary to take into account all or part of a goods and services tax credit

payment, the portion of that payment that is not comprised in the property of the bankrupt for the purpose of paragraph 67(1)(b.1) of the Act is the portion, if any, that would have been paid as a dividend to the creditors had all of the payment been comprised in the property of the bankrupt.

(3) For greater certainty, if no dividend would be available to the creditors even if a goods and services tax credit payment were taken into account, all of that payment is comprised in the property of the bankrupt for the purpose of paragraph 67(1)(b.1) of the Act.

SOR/98-240, s. 1.

### **PRESCRIBED PENSION PLANS FOR OPERATION OF SUBSECTION 60(1.5) AND SECTIONS 81.5 AND 81.6 OF THE ACT**

**59.1** A pension plan regulated by an Act of Parliament or of the legislature of a province is prescribed for the purposes of

(a) subsection 60(1.5) of the Act; and

(b) sections 81.5 and 81.6 of the Act.

SOR/2008-223, s. 1.

### **PRESCRIBED PLAN FOR OPERATION OF PARAGRAPH 67(1)(b.3) OF THE ACT**

**59.2** A deferred profit sharing plan, as defined in subsection 147(1) of the *Income Tax Act*, is prescribed for the purpose of paragraph 67(1)(b.3) of the Act.

SOR/2008-223, s. 1.

### **TAXATION OF ACCOUNTS AND DISCHARGE OF TRUSTEE**

General

**60.** If, pursuant to subsection 152(4) of the Act, the Superintendent gives a letter of comment to the trustee, the trustee shall, within 30 days after receiving the letter, apply to the taxing officer for a date for a taxation hearing.

SOR/92-579, s. 9; SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

**61.** (1) An application of a trustee for discharge must

(a) be made in prescribed form; and

(b) be accompanied by a copy of the notice of final dividend and application for discharge of trustee, a copy of the final statement of receipts and disbursements as taxed, both in prescribed form, and a dividend sheet.

(2) At the time of discharge, the trustee must satisfy the court that

(a) the statements made in connection with the discharge are true;

(b) the final statement of receipts and disbursements is an accurate and correct statement of the administration of the estate, and has been approved by the inspectors and taxed by the court;

(c) [Repealed, SOR/2009-218, s. 7]

(d) all the property of the bankrupt for which the trustee was accountable has been sold, realized or disposed of in the manner described in the final statement of receipts and disbursements;

(e) every claim subject to a dividend was properly examined and that

(i) to the best of the trustee's knowledge, the dividend sheet presented to the court contains a true and correct list of the claims of creditors entitled to share in the estate,

(ii) all payments shown on the dividend sheet have been duly made, and

(iii) unclaimed dividends and undistributed funds have been forwarded to the Superintendent by the trustee in accordance with subsection 154(1) of the Act;  
(f) the trustee has not received, does not expect to receive, and has not been promised, any remuneration or consideration other than as shown in the final statement of receipts and disbursements;  
(g) the trustee has complied with subsection 170(2) of the Act; and  
(h) the final statement of receipts and disbursements, the dividend sheet and the notice of application for discharge of trustee have been sent to the registrar, the Division Office, the bankrupt and every creditor whose claim has been proved.

SOR/98-240, s. 1; SOR/2005-284, s. 6(F); SOR/2009-218, s. 7.

#### Summary Administration

**62.** The trustee of the estate of a bankrupt under summary administration shall apply for taxation of the trustee's accounts and for the discharge of the trustee by sending to the Division Office

- (a) the trustee's final statement of receipts and disbursements, in prescribed form; and
- (b) the dividend sheet, showing the dividends paid or to be paid to the creditors of the bankrupt.
- (c) [Repealed, SOR/2009-218, s. 8]

SOR/98-240, s. 1; SOR/2007-61, s. 12(E); SOR/2009-218, s. 8.

**63.** The Superintendent shall examine all documents sent to the Division Office pursuant to section 62 and issue a letter of comment to the trustee, stating whether the Superintendent is requesting from the registrar the taxation of the trustee's accounts.

SOR/98-240, s. 1.

**64.** (1) If the Superintendent's letter of comment states that the Superintendent is not requesting the taxation of the trustee's accounts, the trustee shall, within 30 days after receipt of the letter of comment, send to each creditor who has proved a claim a notice of taxation of the trustee's accounts and discharge of the trustee, in prescribed form, attaching

- (a) a copy of the trustee's final statement of receipts and disbursements;
- (b) a copy of the dividend sheet, showing the dividends paid or to be paid to the creditors of the bankrupt; and
- (c) the final dividend that is owed to the creditor, if the trustee is satisfied that no creditor will object to the taxation of the trustee's accounts and the discharge of the trustee.

(2) A creditor may, within 30 days after the day on which the notice referred to in subsection (1) is sent, object to the taxation of the trustee's accounts and the discharge of the trustee by

- (a) serving a notice of objection on the trustee or sending a notice of objection to the trustee by registered mail or courier;
- (b) filing a copy of the notice of objection with the registrar, along with any applicable fee provided by the tariff; and
- (c) sending a copy of the notice of objection to the Division Office.

SOR/81-646, s. 4; SOR/92-579, s. 11(F); SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

**64.1 to 64.6** [Repealed, SOR/98-240, s. 1]

**65.** (1) If a trustee receives no notice of objection within the time limit set out in subsection 64(2), the trustee shall

(a) at the expiration of that time limit, take the trustee's fee;  
(b) at the expiration of that time limit, if the trustee has not already done so, send a final dividend to each creditor to whom one is owed; and  
(c) within three months after the day on which the notice referred to in subsection 64(1) is sent,  
(i) close the bank account used in administering the estate of the bankrupt, if that account is not a consolidated account, or, if the account is a consolidated account, ensure that all estate funds have been withdrawn from it,  
(ii) remit any unclaimed dividends and undistributed funds to the Superintendent, and  
(iii) send to the Division Office a certificate of compliance and deemed discharge, in prescribed form.

(2) A trustee is deemed to be discharged on meeting the requirements of paragraphs (1)(b) and (c).

(3) If a trustee receives a notice of objection within the time limit set out in subsection 64(2), the trustee shall

(a) [Repealed, SOR/2009-218, s. 9]

(b) obtain a hearing date from the registrar; and

(c) within 30 days after the day on which the notice of objection is received, send the objecting creditor a notice of hearing, which notice must be sent at least 30 days before the date of the hearing and must be in prescribed form.

SOR/81-646, s. 4; SOR/98-240, s. 1; SOR/2007-61, s. 63(E); SOR/2009-218, s. 9.

**66.** (1) If the Superintendent issues a letter of comment pursuant to section 63 requesting the taxation of a trustee's accounts, the trustee shall, after obtaining a hearing date from the registrar and within 30 days after the day of receipt of the letter of comment, send to each creditor who has proved a claim and to the Division Office

(a) a notice of hearing for the taxation of the trustee's accounts and the discharge of the trustee, in prescribed form, which notice must be sent at least 30 days before the date of the hearing;

(b) a copy of the trustee's final statement of receipts and disbursements; and

(c) a copy of the dividend sheet, showing the dividends paid or to be paid to the creditors of the bankrupt.

(2) A creditor may object to the taxation of the trustee's accounts and discharge of the trustee by

(a) serving a notice of objection on the trustee or sending a notice of objection to the trustee by registered mail or courier, which notice of objection must be received by the trustee before the start of the hearing;

(b) filing a copy of the notice of objection with the registrar, along with any applicable fee provided by the tariff; and

(c) sending a copy of the notice of objection to the Division Office.

SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

**67.** (1) At the time of the hearing, the registrar shall consider the creditors' objections and the letter of comment issued by the Superintendent, and shall tax the trustee's accounts accordingly.

(2) If the registrar taxes a trustee's accounts as submitted, the trustee shall

(a) take the trustee's fee as taxed;

(b) send a final dividend to each creditor to whom one is owed; and

(c) within two months after the date of the taxation order,

- (i) close the bank account used in administering the estate of the bankrupt, if that account is not a consolidated account, or, if the account is a consolidated account, ensure that all estate funds have been withdrawn from it,
  - (ii) remit any unclaimed dividends and undistributed funds to the Superintendent, and
  - (iii) send to the Division Office a certificate of compliance and deemed discharge, in prescribed form.
- (3) A trustee is deemed to be discharged on meeting the requirements of paragraphs (2)(b) and (c).
- (4) If the registrar taxes a trustee's accounts otherwise than as submitted, the trustee shall
- (a) take the trustee's fee as taxed;
  - (b) send a final dividend to each creditor to whom one is owed, in accordance with the taxation order; and
  - (c) within two months after the date of the taxation order,
    - (i) close the bank account used in administering the estate of the bankrupt if that account is not a consolidated account or, if the account is a consolidated account, ensure that all estate funds have been withdrawn from it,
    - (ii) remit any unclaimed dividends and undistributed funds to the Superintendent,
    - (iii) send to the Division Office and to each creditor a revised final statement of receipts and disbursements, a revised dividend sheet and a copy of the taxation order, and
    - (iv) send to the Division Office and to the registrar a certificate of compliance and deemed discharge, in prescribed form.
- (5) A trustee is deemed to be discharged on meeting the requirements of paragraphs (4)(b) and (c).

SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

### **BOOKS, RECORDS AND DOCUMENTS**

- 68.** (1) Unless the court orders otherwise, a trustee shall keep, for at least four years after the date of the trustee's discharge, the books, records and documents relating to the administration of that estate.
- (2) Unless the court orders otherwise, the trustee shall, after being discharged, send to the latest known address of the debtor, bankrupt or officer of the bankrupt corporation, a written notice, unless there is a written waiver giving up the right to be notified, that they or their representative may, within the 30 days following the sending of the notice, take back any of the debtor's or bankrupt's books, records and documents to which subsection (1) does not apply.
- (3) If no person has taken back the books, records and documents within 30 days after the sending of the notice or the giving of the waiver referred to in subsection (2), the trustee may dispose of them.
- (4) Documents on which legal counsel has a lien or a right of retention shall be returned to the legal counsel on completion of the administration of the estate to which the documents relate.

SOR/98-240, s. 1; SOR/2007-61, ss. 13, 63(E).

### **APPLICATION FOR BANKRUPTCY ORDER** **[SOR/2007-61, s. 14]**

**69.** No bankruptcy application filed with the registrar in the judicial district of the locality of the debtor may be served pursuant to subsection 70(1) unless the court has signed it and affixed to it the seal of the court.

SOR/98-240, s. 1; SOR/2007-61, s. 64.

**70.** (1) A notice indicating the time and place of the hearing of the bankruptcy application, together with a certified copy of the application and of the affidavit referred to in subsection 43(3) of the Act, must be served on the debtor, on the trustee named in the application and on the Division Office at least 10 days, or any shorter period that the court may order, before the hearing.

(2) After service of an application in accordance with this section, a copy of that application must immediately be filed at the office of the registrar.

(3) Subject to section 71, service on the debtor under subsection (1) must be effected by personal service.

(4) For the purposes of paragraph 256(3)(c) of the Act, the interval is 10 days.

SOR/98-240, s. 1; SOR/2007-61, s. 15; SOR/2009-218, s. 10.

**71.** (1) If the court determines that service of documents cannot, for cause, be effected by personal service as required by subsection 70(3), the court shall make an order stating the manner of service of the documents.

(2) As soon as an order is made pursuant to subsection (1), the documents shall be served together with the order.

SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

**72.** Service of a bankruptcy application must be proved by affidavit or bailiff's return of service, attached to the original application and filed with the court at least two days before the date of the hearing set out in the application.

SOR/98-240, s. 1; SOR/2007-61, s. 16.

**73.** In the case of a deceased debtor, service of a bankruptcy application must be effected on the executor or administrator of the estate or the liquidator of the deceased debtor's succession.

SOR/98-240, s. 1; SOR/2007-61, s. 16.

**74.** A debtor who contests a bankruptcy application shall file with the court in which the application was filed a notice setting out the contested allegations contained in the application, the grounds for contesting them and the debtor's address, and shall serve a copy of the notice on the applicant or their barrister or solicitor or, in the Province of Quebec, their advocate, at least two days before the date of the hearing set out in the application.

SOR/98-240, s. 1; SOR/2007-61, s. 16.

**75.** If a debtor who has filed a notice under section 74 does not appear at the hearing of the bankruptcy application, the court may make a bankruptcy order based on the allegations contained in the application if the court considers those allegations to be sufficient.

SOR/92-579, s. 13; SOR/98-240, s. 1; SOR/2007-61, s. 16.

**76.** If the hearing of a bankruptcy application has been stayed for the trial of an issue in dispute on a question of fact, the registrar shall, as soon as the issue has been determined, on the application of the debtor or the applicant, fix a time and place for the resumption of the hearing, and the party who makes the application shall give the other party at least two days' notice of the time and place fixed by the registrar.

SOR/98-240, s. 1; SOR/2007-61, s. 16.

**76.1 to 76.4** [Repealed, SOR/98-240, s. 1]

## **INTERIM RECEIVER**

**77.** [Repealed, SOR/2009-218, s. 11]

**78.** If a bankruptcy application is dismissed, the court may, on application presented within 30 days after the day of the dismissal, give judgment with respect to any claim for damages, or with respect to any claim other than a claim for damages arising out of the appointment of an interim receiver, and may make any orders that the court sees fit.

SOR/98-240, s. 1; SOR/2007-61, s. 17.

**79.** (1) An interim receiver shall apply to the court for taxation of accounts and discharge within two months after completion of the interim receiver's duties, after giving notice to

(a) the debtor, or in the case of a bankruptcy, the trustee;

(b) every creditor; and

(c) the Division Office.

(2) The notice referred to in subsection (1) must

(a) be in prescribed form; and

(b) have attached to it a copy of the interim receiver's statement of receipts and disbursements, in prescribed form and stating

(i) the number of hours spent, the tasks performed, the hourly rates and other factors for consideration in the calculation of fees, and

(ii) the expenses incurred by the interim receiver, attaching a copy of any bills of costs for legal services.

SOR/98-240, s. 1.

**80.** A person referred to in paragraph 79(1)(a) or (b) may object to the taxation of the accounts and discharge of the interim receiver by filing a notice of objection with the court within 30 days after the giving of the notice referred to in subsection 79(1).

SOR/98-240, s. 1.

**81.** If no objection is filed within 30 days after the giving of the notice referred to in subsection 79(1), the interim receiver's accounts are deemed to have been taxed and the interim receiver is deemed to be discharged, unless the court requires that the accounts be taxed on their own merit.

SOR/92-579, s. 15; SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

**82.** (1) If an objection is filed within 30 days after the giving of the notice referred to in subsection 79(1), the interim receiver shall, within 10 days after the filing of the objection, apply to the court for a date for a hearing, and shall send a notice of the date of the hearing to the objecting party.

(2) The court, at the hearing, shall tax the interim receiver's accounts on their own merit and may discharge the interim receiver, who shall send the Division Office a copy of the court order relating to the taxation and discharge.

SOR/78-389, s. 3; SOR/92-579, s. 15; SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

**82.1** [Repealed, SOR/98-240, s. 1]

## **BANKRUPTCY ORDERS**

**83.** (1) The applicant shall, as soon as possible and not later than two days after a bankruptcy order is made under subsection 43(6) of the Act, serve, deliver personally or send by courier, facsimile or electronic transmission a copy of the order to the trustee appointed under subsection 43(9) of the Act.

(2) Within two days after receiving the copy of the bankruptcy order, the trustee shall serve a copy of the order on the bankrupt and send a copy to the Division Office.

SOR/98-240, s. 1; SOR/2007-61, s. 18.

**84.** (1) An application to revoke a bankruptcy order or to stay proceedings may be made to the court if a notice of the application, together with copies of supporting affidavits, is served on the applicant and the trustee and is filed with the Division Office.

(2) Pending the hearing of the application mentioned in subsection (1), the court may make an interim order staying the whole or any part of the proceedings.

SOR/98-240, s. 1; SOR/2007-61, s. 19.

**84.1 to 84.8** [Repealed, SOR/98-240, s. 1]

### ASSIGNMENTS

**85.** An official receiver shall, on appointing a trustee pursuant to subsection 49(4) of the Act, prepare a certificate of appointment, in prescribed form, and send a copy of it to the trustee.

SOR/98-240, s. 1.

**86.** On receiving from a bankrupt a statement of affairs described in paragraph 158(d) of the Act, a trustee shall file a copy of it at the office of the official receiver.

SOR/98-240, s. 1.

**86.1 to 86.4** [Repealed, SOR/98-240, s. 1]

**87.** The court may order the trustee to file with the court, before or immediately after the first meeting of the creditors, a copy of the following documents:

- (a) the assignment that was filed with the official receiver;
- (b) the statement of affairs that was filed with the official receiver; and
- (c) the minutes of the first meeting of creditors.

SOR/92-579, s. 20; SOR/98-240, s. 1; SOR/2007-61, s. 20(E); SOR/2009-218, s. 12.

**87.01 to 87.18** [Repealed, SOR/98-240, s. 1]

**88.** (1) An application to annul an assignment may be made to the court if a notice of the application, together with copies of supporting affidavits, is served on the trustee, on the Division Office, and also on the bankrupt if the application is made by a person other than the bankrupt.

(2) Pending the hearing of the application mentioned in subsection (1), the court may make an interim order staying the whole or any part of the proceedings.

SOR/98-240, s. 1.

**88.1** [Repealed, SOR/98-240, s. 1]

### PROPOSALS

**89.** If a trustee has received a proposal made under subsection 50(1) of the Act, the trustee shall file a copy of it with the official receiver.

SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

**90.** (1) As soon as the following documents are filed with the official receiver, the trustee shall file a copy of them with the court:

- (a) the proposal;
- (b) the cash-flow statement, the report on the reasonableness of the cash-flow statement and the report containing the representations by the insolvent person, required by paragraphs 50(6)(a), (b) and (c), respectively, of the Act;

- (c) the material adverse change report required by subparagraph 50(10)(a)(i) of the Act;
- (d) the report on the state of the insolvent person's business and financial affairs required by paragraph 50(10)(b) of the Act;
- (e) the notice of intention referred to in subsection 50.4(1) of the Act;
- (f) the cash-flow statement required by paragraph 50.4(2)(a) of the Act;
- (g) the report on the reasonableness of the cash-flow statement, required by paragraph 50.4(2)(b) of the Act;
- (h) the report containing the representations by the insolvent person required by paragraph 50.4(2)(c) of the Act;
- (i) the material adverse change report required by subparagraph 50.4(7)(b)(i) of the Act; and
- (j) the notice of the meeting of creditors required by paragraph 51(1)(a) of the Act.

(2) For the purposes of paragraphs 50(6)(c) and 50.4(2)(c) of the Act, the representations are as follows:

The hypothetical assumptions are reasonable and consistent with the purpose of the projection described in Note , and the probable assumptions are suitably supported and consistent with the plans of the insolvent person and provide a reasonable basis for the projection. All such assumptions are disclosed in Notes . Since the projection is based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material.

The projection has been prepared solely for the purpose described in Note , using a set of probable and hypothetical assumptions set out in Notes . Consequently, readers are cautioned that it may not be appropriate for other purposes.

SOR/98-240, s. 1.

**91.** For the purposes of section 53 of the Act, the manner in which a creditor who has proved a claim may indicate to the trustee assent to or dissent from the proposal is by personal delivery, by mail, by facsimile or by electronic transmission.

SOR/92-579, s. 23; SOR/98-240, s. 1.

**92.** When approving a proposal, the court may correct any clerical error or omission in it, if the correction does not constitute an alteration in substance.

SOR/98-240, s. 1.

**93.** For the purposes of section 62.1 of the Act,

- (a) the time for an insolvent person to remedy a default in the performance of any provision in a proposal is 30 days after the day the default was made; and
- (b) the time for a trustee to inform the creditors and the official receiver of the situation is 30 days after the expiration of the 30 day period described in paragraph (a).

SOR/98-240, s. 1.

**94.** If an official receiver, under paragraph 57(b.1) or 61(2)(b.1) or subsection 63(6) of the Act, issues a certificate of assignment, the official receiver shall immediately

- (a) send a copy of it to the trustee acting with respect to the proposal; and
- (b) file it with the court.

SOR/98-240, s. 1; SOR/2007-61, s. 21(E); SOR/2009-218, s. 13.

**94.1** The notice to disclaim or resiliate an agreement that is given by the debtor under subsection 65.11(1) of the Act must be served or be sent by registered mail, by courier or, if the recipient agrees, by electronic transmission.

SOR/2009-218, s. 14.

**95.** The notice to disclaim or resiliate a lease that is given by an insolvent person under subsection 65.2(1) of the Act must be served or be sent by registered mail, by courier or, if the recipient agrees, by electronic transmission.

SOR/98-240, s. 1; SOR/2007-61, s. 22(E); SOR/2009-218, s. 14.

### **CONSUMER PROPOSALS**

**96.** For the purposes of paragraph 66.13(1)(b) of the Act, the information that the consumer debtor must provide the administrator is

- (a) information respecting the consumer debtor's financial situation, for the purpose of preparing the consumer proposal; and
- (b) an explanation of the causes of the consumer debtor's insolvency.

SOR/92-579, s. 24; SOR/98-240, s. 1.

**96.1 to 96.6** [Repealed, SOR/98-240, s. 1]

**97.** For the purposes of subsection 66.17(1) of the Act, the manner in which a creditor who has proved a claim may indicate to the administrator assent to or dissent from the consumer proposal is in person, by personal delivery, by agent or mandatary, by proxy, by mail, by facsimile or by electronic transmission.

SOR/98-240, s. 1; SOR/2007-61, s. 23(E).

**98.** The administrator of a consumer proposal shall apply for taxation of accounts and for discharge by sending to the Division Office

- (a) the administrator's final statement of receipts and disbursements, in prescribed form;
- (b) a dividend sheet, showing the dividends paid or to be paid to the creditors under the consumer proposal; and
- (c) if inspectors have been appointed by the creditors, a copy of the minutes of the meeting of inspectors at which the inspectors approved or refused to approve the administrator's final statement of receipts and disbursements and the dividend sheet.

SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

**99.** The Superintendent shall examine all documents sent pursuant to section 98 and shall issue a letter of comment to the administrator, stating whether the Superintendent is requesting from the registrar the taxation of the administrator's accounts.

SOR/98-240, s. 1.

**100.** (1) If the Superintendent's letter of comment states that the Superintendent is not requesting the taxation of the administrator's accounts, the administrator shall, within 30 days after receipt of the letter of comment, send to each creditor who has proved a claim a notice of taxation of the administrator's accounts and discharge of the administrator, in prescribed form, attaching

- (a) a copy of the administrator's final statement of receipts and disbursements;
- (b) a copy of the dividend sheet, showing the dividends paid or to be paid to the creditors under the consumer proposal; and
- (c) the final dividend that is owed to the creditor, if the administrator is satisfied that no creditor will object to the taxation of the administrator's accounts and the discharge of the administrator.

(2) A creditor may, within 30 days after the day on which the notice referred to in subsection (1) is sent, object to the taxation of the administrator's accounts and the discharge of the administrator by

- (a) serving a notice of objection on the administrator or sending a notice of objection to the administrator by registered mail or courier;
- (b) filing a copy of the notice of objection with the registrar, along with any applicable fee provided by the tariff; and
- (c) sending a copy of the notice of objection to the Division Office.

SOR/78-389, s. 4; SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

**101.** (1) If the administrator receives no notice of objection within the time limit set out in subsection 100(2), the administrator shall, within three months after the day on which the notice referred to in subsection 100(1) is sent,

- (a) if the administrator has not already done so, send each creditor the final dividend that is owed to them;
- (b) close the bank account used in administering the consumer proposal, if that account is not a consolidated account, or, if the account is a consolidated account, ensure that all funds governed by the consumer proposal have been withdrawn from it;
- (c) remit any unclaimed dividends and undistributed funds to the Superintendent; and
- (d) send to the Division Office a certificate of compliance and deemed discharge, in prescribed form.

(2) The administrator is deemed to be discharged on meeting the requirements of subsection (1).

(3) If the administrator receives a notice of objection within the time limit set out in subsection 100(2), the administrator shall

- (a) [Repealed, SOR/2009-218, s. 15]
- (b) obtain a hearing date from the registrar; and
- (c) within 30 days after the day on which the notice of objection is received, send the objecting creditor a notice of hearing, which notice must be sent at least 30 days before the date of the hearing and must be in prescribed form.

SOR/78-389, s. 5; SOR/98-240, s. 1; SOR/2007-61, s. 63(E); SOR/2009-218, s. 15.

**102.** (1) If the Superintendent issues a letter of comment pursuant to section 99 requesting the taxation of an administrator's accounts, the administrator shall, after obtaining a hearing date from the registrar and within 30 days after the day of receipt of the letter of comment, send to each creditor who has proved a claim and to the Division Office

- (a) a notice of hearing for the taxation of the administrator's accounts and the discharge of the administrator, in prescribed form, which notice must be sent at least 30 days before the date of the hearing;
- (b) a copy of the administrator's final statement of receipts and disbursements; and
- (c) a copy of the dividend sheet, showing the dividends paid or to be paid to the creditors under the consumer proposal.

(2) A creditor may object to the taxation of the administrator's accounts and discharge of the administrator by

- (a) serving a notice of objection on the administrator or sending a notice of objection to the administrator by registered mail or courier, which notice of objection must be received by the administrator before the start of the hearing;

(b) filing a copy of the notice of objection with the registrar, along with any applicable fee provided by the tariff; and

(c) sending a copy of the notice of objection to the Division Office.

SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

**103.** (1) At the time of the hearing, the registrar shall consider the creditors' objections and the letter of comment issued by the Superintendent, and shall tax the administrator's accounts accordingly.

(2) If the registrar taxes an administrator's accounts as submitted, the administrator shall, within two months after the date of the taxation order,

(a) send each creditor the final dividend that is owed to them;

(b) close the bank account used in administering the consumer proposal, if that account is not a consolidated account, or, if the account is a consolidated account, ensure that all funds governed by the consumer proposal have been withdrawn from it;

(c) remit any unclaimed dividends and undistributed funds to the Superintendent; and

(d) send to the Division Office a certificate of compliance and deemed discharge, in prescribed form.

(3) The administrator is deemed to be discharged on meeting the requirements of subsection (2).

(4) If the registrar taxes an administrator's accounts otherwise than as submitted, the administrator shall

(a) adjust the administrator's fee as taxed and, if that fee was reduced by the taxation, reimburse the difference to the bank account used in administering the consumer proposal; and

(b) within two months after the date of the taxation order,

(i) send each creditor the final dividend that is owed to them, in accordance with the taxation order,

(ii) close the bank account used in administering the consumer proposal, if that account is not a consolidated account, or, if the account is a consolidated account, ensure that all funds governed by the consumer proposal have been withdrawn from it,

(iii) remit any unclaimed dividends and undistributed funds to the Superintendent,

(iv) send to the Division Office and to each creditor a revised final statement of receipts and disbursements, a revised dividend sheet and a copy of the taxation order, and

(v) send to the Division Office and to the registrar a certificate of compliance and deemed discharge, in prescribed form.

(5) The administrator is deemed to be discharged on meeting the requirements of subsection (4).

SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

### **PRESCRIBED REGULATORY BODY**

**103.1** A stock exchange that is regulated by an Act of Parliament or of the legislature of a province, the Investment Industry Regulatory Organization of Canada and the Mutual Fund Dealers Association of Canada are prescribed for the purposes of section 69.6 of the Act.

SOR/2009-218, s. 16.

## CONTRIBUTORIES

**104.** (1) In this section, "contributory" has the same meaning as in section 77 of the Act.

(2) The trustee may at any time, by written notice, demand payment from a contributory, within 30 days after the day of service or sending of the notice, of the amount that the contributory is liable to contribute under subsection 77(1) of the Act. The notice must include the relevant information on the contributory's right of dispute under subsection (4).

(3) The notice under subsection (2) must be served personally on the contributory, or sent by registered mail or courier to the contributory's latest known address or the address shown in the stock register or other books of the bankrupt corporation.

(4) Within the 30 days after the day on which notice was served or sent, the contributory may dispute their liability, in whole or in part, in respect of the amount to be contributed, by giving the trustee a written notice of dispute setting out the disputed items and the grounds for disputing them and, after this notice is given, except with leave of the court, the contributory may not plead any other ground of dispute in any proceedings brought against the contributory by the trustee.

(5) If the amount to be contributed is not paid, or a notice of dispute is not sent, within the 30 day period referred to in subsection (4), the trustee may take *ex parte* proceedings for the recovery of the amount from the contributory in question.

(6) When the trustee receives a notice of dispute, the trustee may apply to the court to decide the issue and, within 10 days after making that application, shall send the contributory a notice of hearing of the application.

SOR/98-240, s. 1; SOR/2005-284, s. 7(F); SOR/2007-61, ss. 24(E), 63(E).

## MEDIATION

**105.** (1) For the purposes of subsections 68(8) and 170.1(2) of the Act, the procedures governing a mediation are as set out in this section.

(2) For the purposes of this section,

(a) the bankrupt and the trustee are always parties to the mediation;

(b) the trustee may act either personally or through a representative;

(c) an opposition to discharge made by a creditor or the trustee, referred to in subsection 170.1(1) of the Act, is deemed to be a request by the creditor or the trustee, as the case may be, for mediation; and

(d) a creditor who requests mediation is a party to the mediation.

(3) For the purpose of conducting a particular mediation, the Superintendent shall designate as mediator

(a) an employee of a Division Office, including Division Offices other than the one for the bankruptcy division in which the proceedings were commenced; or

(b) any other person with training or experience in mediation and whom the Superintendent considers qualified.

(4) On receipt of a request for mediation from a trustee under subsection 68(6) or (7) or 170.1(1) of the Act, accompanied by the most recent income and expense statement in prescribed form completed by the bankrupt, the official receiver shall refer the matter to the mediator, who shall set the time and place for the mediation. The time set for the mediation must be within 45 days after the official receiver received the request for mediation.

(5) The mediator shall conduct the mediation with all parties physically present, unless the mediator decides to conduct the mediation by telephone conference call or by means of any other communication facilities that permit all persons participating in the mediation to communicate with each other.

(6) The mediation must be held at the Division Office, at any other place that is designated by the mediator, or, if the mediation is conducted otherwise than with all parties physically present, at any combination of places necessary for that purpose.

(7) The mediator shall send a copy of the notice of the mediation, in prescribed form, to the bankrupt, to the trustee and to any creditor who requested mediation, at least 15 days, or any shorter period that may be agreed to by all the parties concerned, before the date set for the mediation.

(8) If, at any time before the mediation has started, the mediator believes on reasonable grounds that the mediation cannot proceed at the time scheduled, the mediator shall reschedule it, setting a new time and place.

(9) Except when it would constitute a second adjournment, the mediator shall, subject to subsection (13), adjourn the mediation at any time during the mediation if

(a) a party requests an adjournment and the mediator believes on reasonable grounds that the mediation would benefit from further negotiations or the provision of additional information;

(b) the mediator believes on reasonable grounds that one of the parties, other than the trustee in the case of a mediation requested by a creditor under subsection 170.1(1) of the Act, cannot continue the mediation for a certain period of time;

(c) all the creditors who were informed of the mediation in accordance with subsection (7) or (11) fail to appear at the mediation and the mediator believes on reasonable grounds, with respect to at least one of those creditors, that the non-appearance is neither a delaying tactic nor intended to bring the mediation into disrepute;

(d) in the case of a mediation requested by a creditor under subsection 170.1(1) of the Act, a party, other than the trustee, who was informed of the mediation in accordance with subsection (7) or (11) fails to appear at the mediation and the mediator believes on reasonable grounds that the non-appearance is neither a delaying tactic nor intended to bring the mediation into disrepute; or

(e) in any case other than the one referred to in paragraph (d), a party, other than a creditor, who was informed of the mediation in accordance with subsection (7) or (11) fails to appear at the mediation and the mediator believes on reasonable grounds that the non-appearance is neither a delaying tactic nor intended to bring the mediation into disrepute.

(10) If a mediation is rescheduled or adjourned, the new date set must be within 10 days after the date on which the rescheduling or adjournment occurs.

(11) If a mediation is rescheduled or adjourned, the mediator shall inform the parties of the new time and place.

(12) At any time during the mediation, the mediator shall, subject to subsection (13), cancel the mediation if

(a) there is an outstanding opposition to the discharge of the bankrupt by a creditor or the trustee on a ground referred to in paragraphs 173(1)(a) to (l) or (o) of the Act;

(b) the mediator believes on reasonable grounds that a party is abusing the rescheduling procedures;

(c) there has already been an adjournment and

(i) there is a request for adjournment under paragraph (9)(a), or

(ii) one of the circumstances referred to in paragraphs (9)(b) to (e) occurs;

(d) the mediator believes on reasonable grounds that one of the parties, other than the trustee in the case of a mediation requested by a creditor under subsection 170.1(1) of the Act, cannot continue the mediation at all;

(e) all the creditors who were informed of the mediation in accordance with subsection (7) or (11) fail to appear at the mediation and the mediator believes on reasonable grounds, with respect to all of those creditors, that the non-appearance is a delaying tactic or is intended to bring the mediation into disrepute;

(f) in the case of a mediation requested by a creditor under subsection 170.1(1) of the Act, a party, other than the trustee, who was informed of the mediation in accordance with subsection (7) or (11) fails to appear at the mediation and the mediator believes on reasonable grounds that the non-appearance is a delaying tactic or is intended to bring the mediation into disrepute; or

(g) in any case other than the one referred to in paragraph (f), a party, other than a creditor, who was informed of the mediation in accordance with subsection (7) or (11) fails to appear at the mediation and the mediator believes on reasonable grounds that the non-appearance is a delaying tactic or is intended to bring the mediation into disrepute.

(13) Despite paragraphs (9)(b) and (d) and (12)(d) and (f), the absence of one or more creditors who requested mediation, or the inability of one or more creditors who requested mediation to continue the mediation, is not a ground for adjourning or cancelling the mediation if at least one creditor who requested mediation is present at the mediation, or is able to continue the mediation, as the case may be.

(14) In the case of a mediation under section 170.1 of the Act, if all of the creditors who requested the mediation cause the cancellation of the mediation under paragraph (12)(e),

(a) the opposition to discharge on the part of each of those creditors on a ground referred to in paragraph 173(1)(m) or (n) of the Act is deemed withdrawn; and

(b) the issues submitted to mediation are deemed to have been thereby resolved for the purposes of subsection 170.1(3) of the Act.

(15) For greater certainty, if

(a) a mediation under section 68 of the Act is cancelled under any of paragraphs (12)(a) to (g), or

(b) a mediation under section 170.1 of the Act is cancelled otherwise than under paragraph (12)(e),

the issues submitted to mediation are deemed to have not been thereby resolved for the purposes of subsection 68(10) or 170.1(3), as the case may be, of the Act.

(16) If a mediation is cancelled, the mediator shall send to the Division Office and the parties a notice of the cancellation, in prescribed form, setting out the grounds for the cancellation.

(17) No mediator or party to a mediation shall disclose to the public any confidential information concerning an issue submitted to mediation, unless the disclosure is

- (a) required by law; or
  - (b) authorized by the person to whom the confidential information relates.
- (18) If agreement is reached by all parties at the mediation, a mediation settlement agreement, in prescribed form and including all terms and conditions of the settlement reached, must be signed by the parties, and the mediator shall send copies of the agreement to the Division Office and the parties. The agreement is binding on the parties, subject to any subsequent court order.
- (19) All payments made by a bankrupt under a mediation settlement agreement must be made to the trustee and deposited into the estate account.
- (20) If the parties fail to reach agreement at the mediation, the mediator shall issue a notice in prescribed form to the effect that the issues submitted to mediation under subsection 68(6) or (7) or 170.1(1), as the case may be, of the Act were not resolved, and shall send that notice to the Division Office and the parties.

SOR/98-240, s. 1; SOR/2007-61, s. 25(E); SOR/2009-218, s. 17.

### **ORDER FOR PAYMENT**

- 106.** (1) A trustee who makes an application to the court under subsection 68(10) of the Act shall immediately send to the Division Office a copy of the application, and of any order of the court made under that subsection.
- (2) A creditor who, pursuant to a court order made under subsection 38(1) of the Act, makes an application to the court under subsection 68(10) of the Act shall immediately send to the Division Office a copy of the application, and of any order of the court made under the latter subsection.

SOR/98-240, s. 1; SOR/2007-61, s. 65(E).

**106.1 to 106.3** [Repealed, SOR/98-240, s. 1]

### **PREFERENCES AND TRANSFERS AT UNDERVALUE** **[SOR/2009-218, s. 18]**

- 107.** The registrar may
- (a) in the Province of Quebec, if an immovable or any right relating to it is the object of litigation under sections 91 to 99 of the Act, authorize the plaintiff to apply for the registration of a notice of advance registration in the appropriate register after a copy of the demand signed by the plaintiff's advocate is filed with the court; and
  - (b) in any other province, if real property or any interest relating to it is the object of litigation under sections 91 to 99 of the Act, issue a certificate of *lis pendens* after a copy of the statement of claim signed by the plaintiff's barrister or solicitor is filed with the court, and, if the plaintiff is unsuccessful in whole or in part, issue a certificate of disallowance.

SOR/98-240, s. 1; SOR/2007-61, s. 26; SOR/2009-218, s. 19.

### **MEETINGS OF CREDITORS**

- 108.** (1) For the purposes of paragraph 155(d.1) of the Act, the notice of the first meeting of creditors must be sent to the persons referred to in subsection 102(1) of the Act at least 10 days before the day of the meeting.
- (2) If a bankrupt cannot speak fluently in the official language in which the meeting of creditors is being conducted, the trustee shall arrange for the services of an interpreter approved by the chairperson of the meeting.

SOR/98-240, s. 1; SOR/2007-61, s. 63(E); SOR/2009-218, s. 20.

**109.** If a partnership is bankrupt, the creditors of the partnership and of each bankrupt partner shall be convened collectively for the first meeting of creditors.

SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

**109.1** [Repealed, SOR/98-240, s. 1]

**110.** A bankrupt who is required by a trustee to attend a meeting of creditors other than the first meeting, and who resides more than 100 km from the place of the meeting, is entitled to be paid, out of the estate, reasonable expenses for travel, accommodation and meals.

SOR/98-240, s. 1.

### **CROWN'S SECURITY**

**111.** For the purposes of subsection 87(1) of the Act, a "prescribed system of registration" referred to in that subsection is a system of registration of securities that is available to Her Majesty in right of Canada or a province and to any other creditor holding a security, and is open to the public for inspection or for the making of searches.

SOR/98-240, s. 1.

### **NOTICE OF DIVIDEND**

**112.** The notice of dividend that is received by a creditor is sufficient notice of admission of the claim.

SOR/98-240, s. 1.

### **NOTICE OF DISALLOWANCE OR OF VALUATION**

**113.** The notice of disallowance or notice of valuation provided by a trustee under subsection 135(3) of the Act to a person whose claim, right to a prior rank, or security has been disallowed or on which a valuation has been made, in whole or in part, must be served, or sent by registered mail or courier.

SOR/85-325, s. 1; SOR/87-380, s. 1; SOR/98-240, s. 1; SOR/2007-61, s. 27(E).

**113.1 to 113.6** [Repealed, SOR/98-240, s. 1]

### **BANKRUPT PARTNERSHIPS**

**114.** A partnership that is bankrupt shall submit to the trustee a statement of its partnership affairs, verified by one of the partners or by the manager in charge of the partnership affairs, and each bankrupt partner shall submit a statement of their own personal affairs.

SOR/81-646, s. 5; SOR/98-240, s. 1.

### **EXAMINATIONS**

**115.** Examinations, other than those under section 159 or 161 of the Act, shall be held before a registrar, before a person who is qualified to hold examinations for discovery, examinations of judgment debtors or examinations of debtors after judgment or before any other person that the court may, on *ex parte* application, order, and shall be conducted in accordance with the rules of court in civil cases.

SOR/85-167, s. 1; SOR/85-1162, s. 1(E); SOR/90-83, s. 1; SOR/92-579, s. 29; SOR/96-473, s. 1; SOR/98-240, s. 1; SOR/2005-284, s. 8; SOR/2007-61, s. 28.

**116.** (1) An examination shall be held

(a) in the bankruptcy district or division in which the person to be examined

(i) resides,

(ii) was served with the appointment for examination, or

(iii) resided or carried on business on the day of the bankruptcy; or  
(b) at any place that the court may, on *ex parte* application, order.  
(2) The court may, on application, set the time of an examination.

SOR/92-579, s. 30; SOR/98-240, s. 1; SOR/2007-61, s. 29(E).

**117.** The official receiver shall, before conducting an examination referred to in section 159 or 161 of the Act, send a notice of examination, in prescribed form, to the person to be examined.

SOR/92-579, s. 30; SOR/98-240, s. 1.

### DISCHARGE OF BANKRUPTS

**118.** Any person opposing the discharge of a bankrupt under the Act must file that opposition with the court, together with any applicable fee provided by the tariff.

SOR/92-579, s. 30; SOR/98-240, s. 1.

**119.** The court may, on an application for the discharge of a bankrupt, summon the bankrupt to appear for examination.

SOR/92-579, s. 30; SOR/98-240, s. 1; SOR/2007-61, s. 30.

**120.** (1) If an order of discharge is made conditional on the bankrupt's consenting to judgment in favour of the trustee for the whole or any part of the balance of the bankrupt's debts, the judgment shall be filed in the court in the bankruptcy district or division in which the order of discharge is granted.

(2) If the bankrupt does not give the consent referred to in subsection (1) within 10 days after the date of the conditional order of discharge, the court may, on application by the trustee, revoke the conditional order of discharge or make any other order that the court considers appropriate.

SOR/92-579, s. 30; SOR/98-240, s. 1; SOR/2007-61, ss. 31(E), 63(E).

**121.** If a bankrupt applies to the court to modify the terms of an order of discharge pursuant to subsection 172(3) of the Act, the bankrupt shall send a notice of the time and place of the hearing of the application, at least 10 days before the day of the hearing, to the trustee, the Division Office and every creditor who has proved their claim, at their latest known address.

SOR/92-579, s. 30; SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

### TRUSTEE REPORT

**121.1** (1) For the purposes of subsection 170(1) of the Act, the circumstances in which the trustee shall prepare a report are the following:

- (a) the bankrupt has surplus income;
- (b) an opposition to the discharge of the bankrupt has been made;
- (c) the bankrupt has been bankrupt on a previous occasion under the laws of Canada or any prescribed jurisdiction; or
- (d) a court hearing of the discharge is required.

(2) The report shall be prepared

(a) in the case of an individual who is eligible for an automatic discharge and who has never before been bankrupt under the laws of Canada or any prescribed jurisdiction,

(i) during the eighth month after the date of the bankruptcy, or

(ii) during the twentieth month after the date of the bankruptcy, if the individual is required to make payments under section 68 of the Act;

(b) in the case of an individual who is eligible for an automatic discharge and who has been bankrupt once before under the laws of Canada or any prescribed jurisdiction,

(i) during the twenty-third month after the date of the bankruptcy, or

(ii) during the thirty-fifth month after the date of the bankruptcy, if the individual is required to make payments under section 68 of the Act; and

(c) in the case of an individual who is not eligible for an automatic discharge, not less than 10 days and not more than 60 days before the date of the hearing of the application for discharge.

SOR/2009-218, s. 21.

### **PUBLIC RECORDS**

**122.** (1) For the purposes of subsection 11.1(1) of the Act, the Superintendent, (a) in keeping or causing to be kept a public record of each proposal, shall keep the files relating to it for at least 10 years after the date on which a certificate of full performance of the proposal is given pursuant to section 65.3 or 66.38 of the Act;

(b) in keeping or causing to be kept a public record of each bankruptcy of an individual, shall keep the files relating to it

(i) for at least 10 years after the date on which the trustee of the bankrupt's estate is discharged under subsection 41(2) of the Act, or is deemed to be discharged pursuant to these Rules, and

(ii) if the bankrupt has not been granted an absolute order of discharge under subsection 172(1) of the Act at the end of the period referred to in subparagraph (i), until the bankrupt has been granted that order;

(c) in keeping or causing to be kept a public record of each bankruptcy of a corporation, shall keep the files relating to it for at least 10 years after the date on which the trustee of the bankrupt's estate is discharged under subsection 41(2) of the Act;

(d) in keeping or causing to be kept a public record of each licence issued to a trustee, shall keep the files relating to it for at least 30 years after the date of expiry of the licence;

(e) in keeping or causing to be kept a public record of each appointment or designation by the Superintendent of a person to administer consumer proposals, shall keep the files relating to it for at least 30 years after the date on which the appointment or designation ceases to have effect; and

(f) in keeping or causing to be kept a public record of each notice sent to the Superintendent by a receiver pursuant to subsection 245(1) of the Act, shall keep the files relating to it for at least 10 years after the date on which the notice is received by the Superintendent.

(2) For the purposes of subsection 11.1(2) of the Act, the Superintendent shall keep or cause to be kept any other records relating to the administration of the Act that the Superintendent deems advisable, for at least six years after the date on which they are opened.

SOR/92-579, s. 30; SOR/98-240, s. 1; SOR/2007-61, ss. 32(E), 63(E).

### **RATE OF LEVY**

**123.** (1) Subject to subsection (2) and (3), the rate of levy payable on all payments, pursuant to section 147 of the Act, is

(a) five per cent, if the amount of payments is \$1,000,000 or less;

- (b) five per cent of the first \$1,000,000, plus one and one-quarter per cent of the amount in excess of \$1,000,000, if the amount of payments exceeds \$1,000,000 but is not more than \$2,000,000; or
- (c) five per cent of the first \$1,000,000, one and one-quarter per cent of the second \$1,000,000, plus one-quarter of one per cent of the amount in excess of \$2,000,000, if the amount of payments exceeds \$2,000,000.
- (2) The rate of levy payable in a proposal is
- (a) five per cent, if the amount of payments is \$1,000,000 or less;
- (b) five per cent of the first \$1,000,000, plus one and one-quarter per cent of the amount in excess of \$1,000,000, if the amount of payments exceeds \$1,000,000 but is not more than \$2,000,000; or
- (c) five per cent of the first \$1,000,000, one and one-quarter per cent of the second \$1,000,000, plus zero per cent of the amount in excess of \$2,000,000, if the amount of payments exceeds \$2,000,000.
- (3) The rate of levy payable for an estate under summary administration is
- (a) 100 per cent, if the amount of payments is \$200 or less; or
- (b) 100 per cent of the first \$200 plus zero per cent of the amount in excess of \$200, if the amount of payments exceeds \$200.
- (4) The rate of levy set out in subsection (3) applies to all estates under summary administration for which the final statement of receipts and disbursements has been received by the Division Office on or after the date of coming into force of that subsection.

SOR/92-579, s. 30; SOR/98-240, s. 1; SOR/2001-155, s. 1; SOR/2007-61, s. 63(E).

### SECURED CREDITORS AND RECEIVERS

**124.** The notice of intention to enforce a security pursuant to subsection 244(1) of the Act shall be in prescribed form and shall be served, or sent by registered mail or courier, or, if agreed to by the parties, by electronic transmission.

SOR/98-240, s. 1; SOR/2005-284, s. 9.

**125.** The statement required by subsection 246(1) of the Act to be prepared by a receiver after taking possession or control of property of an insolvent person or a bankrupt must contain the following information:

- (a) the name of each creditor of the insolvent person or bankrupt, the amount owing to each creditor and the total amount owing to the creditors;
- (b) a list of the property in the possession or under the control of the receiver, and the book value of each item; and
- (c) the receiver's intended plan of action during the receivership, to the extent that such a plan has been established.

SOR/98-240, s. 1.

**126.** For the purposes of subsection 246(2) of the Act, interim reports relating to a receivership must be prepared by the receiver at least once every six months and must include

- (a) the interim statement of receipts and disbursements, in prescribed form;
- (b) the statement of all property of which the receiver has taken possession or control that has not yet been sold or realized; and
- (c) information about the anticipated completion of the receivership.

SOR/98-240, s. 1.

**127.** The final report and statement of accounts that are required by subsection 246(3) of the Act to be prepared by a receiver immediately after completion of their duties as receiver must contain the following information:

- (a) the final statement of receipts and disbursements;
- (b) details of the manner of distribution of the proceeds realized from the property of which the receiver had taken possession or control; and
- (c) details of the disposition of any property of which the receiver had taken possession or control and that is not accounted for in the final statement of receipts and disbursements.

SOR/98-240, s. 1; SOR/2007-61, ss. 33(F), 65(E).

### **TRUSTEE'S FEES AND DISBURSEMENTS IN SUMMARY ADMINISTRATION**

**128.** (1) The fees of the trustee for services performed in a summary administration are calculated on the total receipts remaining after deducting necessary disbursements relating directly to the realization of the property of the bankrupt, and the payments to secured creditors, according to the following percentages:

- (a) 100 per cent on the first \$975 or less of receipts;
- (b) 35 per cent on the portion of the receipts exceeding \$975 but not exceeding \$2,000; and
- (c) 50 per cent on the portion of the receipts exceeding \$2,000.

(2) A trustee in a summary administration may claim, in addition to the amount set out in subsection (1),

- (a) the costs of counselling referred to in subsection 131(2);
- (b) the fee for filing an assignment referred to in paragraph 132(a);
- (c) the fee payable to the registrar under paragraph 1(a) of Part II of the schedule;
- (d) the amount of applicable federal and provincial taxes for goods and services; and
- (e) a lump sum of \$100 in respect of administrative disbursements.

(3) A trustee in a summary administration may withdraw from the bank account used in administering the estate of the bankrupt, as an advance on the amount set out in subsection (1),

- (a) \$250, at the time of the mailing of the notice of bankruptcy;
- (b) an additional \$250, thirty days after the date of the bankruptcy; and
- (c) an additional \$250, four months after the date of the bankruptcy.

(4) Subsections (1) to (3) apply to bankruptcies in respect of which proceedings are commenced on or after September 30, 1997 and the accounts are taxed on or after April 30, 1998.

SOR/98-240, s. 1.

### **ADMINISTRATOR'S FEES AND EXPENSES IN A CONSUMER PROPOSAL**

**129.** (1) For the purposes of paragraph 66.12(6)(b) of the Act, the fees and expenses of the administrator of a consumer proposal that must be provided for in a consumer proposal are as follows:

- (a) \$750, payable on filing a copy of the consumer proposal with the official receiver;
- (b) \$750, payable on the approval or deemed approval of the consumer proposal by the court;
- (c) 20 per cent of the moneys distributed to creditors under the consumer proposal, payable on the distribution of the moneys;
- (d) the costs of counselling referred to in subsection 131(1);
- (e) the fee for filing a consumer proposal referred to in paragraph 132(c);

- (f) the fee payable to the registrar under paragraph 3(b) of Part II of the schedule; and
- (g) the amount of applicable federal and provincial taxes for goods and services.
- (2) Subsection (1) applies to consumer proposals in respect of which proceedings are commenced on or after April 30, 1998.

SOR/98-240, s. 1.

### **APPLICATION OF SUMMARY ADMINISTRATION PROVISIONS**

**130.** For the purposes of subsections 49(6) and (8) of the Act, the amount is \$15,000.

SOR/98-240, s. 1; SOR/2009-218, s. 22.

### **MISCELLANEOUS FEES**

**131.** (1) For the purposes of paragraph 66.12(6)(b) of the Act, the fees and expenses in respect of counselling are \$85 per session if counselling is provided on an individual basis, and \$25 per person per session if counselling is provided on a group basis.

(2) For the purposes of subsection 157.1(1) of the Act, the costs of counselling are \$85 per session if counselling is provided on an individual basis, and \$25 per person per session if counselling is provided on a group basis.

SOR/98-240, s. 1; SOR/2007-61, s. 63(E).

**132.** (1) The total fee to file all documents relating to an estate with the official receiver is as follows:

(a) \$75 for an estate under summary administration in respect of an individual bankrupt who has never before been bankrupt under the laws of Canada or of any jurisdiction prescribed under section 168.1 of the Act and, in the case of any other bankruptcy, \$150, payable at the time of filing an assignment under subsection 49(3) of the Act or at the time of the making of a bankruptcy order under subsection 43(6) of the Act;

(b) in the case of a proposal made by an insolvent person, \$150, payable at the time of filing a copy of the proposal pursuant to subsection 62(1) of the Act;

(c) in the case of a consumer proposal made by a consumer debtor, \$100, payable at the time of filing a copy of the consumer proposal pursuant to paragraph 66.13(2)(d) of the Act; and

(d) if the official receiver directs, pursuant to subsection 49(8) of the Act, that subsection 49(6) of the Act ceases to apply in respect of a bankrupt, \$75, payable at the time of the official receiver's direction.

(2) The fees set out in paragraphs (1)(a), (c) and (d) apply to all documents filed on or after the coming into force of those paragraphs.

SOR/98-240, s. 1; SOR/2001-155, s. 2; SOR/2007-61, s. 34.

**133.** For the purposes of subsection 11.1(1) of the Act, the fee payable for each request for information contained in the public record is \$8.

SOR/98-240, s. 1.

**134.** (1) For the purposes of subsection 13.2(1) of the Act, the fee payable by an applicant for a licence to act as a trustee is \$300.

(2) For the purposes of subsection 13.2(2) of the Act, the annual fee payable by a trustee is \$850.

(3) For the purposes of paragraph 13.2(4)(a) of the Act, the penalty amount that must be paid by a trustee is \$100.

SOR/98-240, s. 1; SOR/2001-155, s. 3.

**135.** For the purposes of subsection 120(5) of the Act, the fees per meeting that may be paid to an inspector, to be determined on the net receipts as calculated by subtracting the payments to secured creditors from the amount of total receipts received by the trustee, are as follows:

- (a) \$10, if the estate has net receipts of less than \$10,000;
- (b) \$20, if the estate has net receipts of \$10,000 or more but less than \$50,000;
- (c) \$30, if the estate has net receipts of \$50,000 or more but less than \$100,000; or
- (d) \$40, if the estate has net receipts of \$100,000 or more.

SOR/98-240, s. 1; SOR/99-416, s. 1; SOR/2007-61, s. 63(E).

**136.** For the purposes of subsection 245(1) of the Act, the fee that accompanies the notice sent to the Superintendent is \$70.

SOR/98-240, s. 1.

**136.1** (1) The fee payable by a creditor who applies for payment of a dividend pursuant to subsection 154(2) of the Act is \$30 for each dividend applied for.

(2) The fee set out in subsection (1) applies to all applications for dividends made on or after the coming into force of that subsection.

SOR/2001-155, s. 4.

### **PRESCRIBED DATE**

**137.** For the purposes of paragraphs 136(1)(h) and (j) of the Act, the prescribed date is November 30, 1992.

SOR/98-240, s. 1.

### **NOTICE RELATED TO FOREIGN PROCEEDING**

**138.** For the purposes of paragraph 276(b) of the Act, the notice must contain the following information:

- (a) the name and contact information of the foreign representative;
- (b) the name of the debtor and the name under which the debtor carries on business in Canada, if any;
- (c) the following information respecting the order, namely
  - (i) the name of the court that made it,
  - (ii) the legislative provision under which it was made, and
  - (iii) the date on which it was made;
- (d) the country in which the foreign proceeding is filed;
- (e) whether the proceeding is a foreign main or foreign non-main proceeding; and
- (f) the name and contact information of legal counsel for the foreign representative.

SOR/2009-218, s. 23.

## **SCHEDULE**

*(Section 1 and paragraphs 128(2)(c) and 129(1)(f))*

### **PART I**

**[Repealed, SOR/2010-97, s. 1]**

### **PART II**

## FEES PAYABLE TO COURT OFFICERS

### Fees Payable to the Registrar

#### Bankruptcy

1. The trustee shall pay the registrar, at the time of the opening of a file or at any later date determined by the registrar,
  - (a) for all Court services to be rendered to the trustee in a summary administration bankruptcy, a single fee of ..... \$ 50
  - (b) for all Court services to be rendered to the trustee in a bankruptcy other than a summary administration bankruptcy, a single fee of ..... \$150
2. No fee shall be paid by the trustee if
  - (a) a summary administration bankruptcy file is caused to be opened by a person other than the trustee and a fee is paid pursuant to paragraph 4(f) for an opposition to the discharge of the bankrupt; or
  - (b) the debtor has become bankrupt following a bankruptcy order made under subsection 43(6) of the Act, has filed an assignment under subsection 50(4.1) of the Act or is deemed to have made an assignment under subsection 50.4(8) or (11), paragraph 57(a) or subsection 61(2) or 63(4) of the Act.

#### Proposal

3. The trustee or the administrator shall pay the registrar, at the opening of a file or at any later date determined by the registrar,
  - (a) for all Court services to be rendered to the trustee in a general scheme proposal (Division I of Part III of the Act), a single fee of ..... \$150
  - (b) for all Court services to be rendered to the administrator in a consumer proposal (Division II of Part III of the Act), a single fee of ..... \$ 50

#### Bankruptcy and proposal

4. A person other than the trustee or the administrator shall pay a fee to the registrar for the following services:
  - (a) an application for a bankruptcy order ..... \$150
  - (b) a motion for the appointment of an interim receiver ..... \$ 50
  - (c) a motion made under section 248 or 249 of the Act ..... \$ 50
  - (d) a motion for substituted service ..... \$ 10
  - (e) any other motion
  - (i) in an ordinary bankruptcy or a proposal under Division I of Part III of the Act ..... \$ 50
  - (ii) in a summary bankruptcy or a proposal under Division II of Part III of the \$ 10

Act .....	
(f) any written dispute or opposition .....	\$ 50
(g) taxing a receiver's accounts under subsection 248(2) of the Act .....	\$ 50
(h) taxing a bill of legal services costs for	
(i) a bill of \$500 or more, but not exceeding \$3,000 .....	\$ 25
(ii) a bill in excess of \$3,000 .....	\$ 50

#### Other services

5. The fees payable for all other services, including proceedings before the Court of Appeal, name searches and the issuance of a subpoena or a certificate, shall be those in effect within each province or territory.
6. No fee shall be charged for the filing of a document or report by the Official Receiver or the Superintendent of Bankruptcy.

#### Fees and Disbursements Payable to the Bailiff

7. The fees and disbursements payable to the bailiff shall be those in effect within each province or territory.

### PART III

#### SCALE OF TRUSTEE'S DISBURSEMENTS FOR WORK IN OTHER THAN SUMMARY ADMINISTRATION

The trustee shall, in other than summary administrations, be entitled to be paid his disbursements, and in taxing such disbursements the taxing officer may allow as disbursements the following:

1. For taking possession, verifying the bankrupt's statement of affairs, and making an inventory of his assets and a list of his liabilities:

The actual disbursements of the trustee in connection with the said work.

2. For preparing and mailing to all creditors the following documents:
  - (a) notice of first meeting,
  - (b) documents accompanying notice of first meeting,
  - (c) explanatory circular letter,
  - (d) statement of assets and liabilities,
  - (e) minutes of first meeting or synopsis thereof,
  - (f) interim report from statement,
  - (g) notice of application for discharge,
  - (h) notice of application to pass accounts,
  - (i) statement of receipts and disbursements,
  - (j) dividend sheet,
  - (k) other documents necessary or desirable in the opinion of the taxing officer to inform the creditors,

the cost of printing plus postage or if it is less,  
(*l*) on the first 100 notices and other documents, \$0.07 per folio,  
(*m*) on the next 200 notices and other documents, \$0.05 per folio,  
(*n*) on any excess over 300 notices and other documents, \$0.02 per folio,  
plus postage.

3. Printed proof of debt and proxy forms at cost:

If the court considers that the amount of remuneration allowed to the trustee is sufficient to compensate him adequately for all services rendered to the estate, the court may disallow the foregoing disbursements either in whole or in part.

If a court officer performs a service for which no fee is provided in this tariff, the court may allow a fee in an amount equal to the fee in this tariff for the service most nearly analogous or comparable to the services rendered, or if no fee can be found herein applicable to the particular service rendered, according to the tariff in effect in other civil matters in the court.

No disbursements are payable to trustees in respect of

- (a) collection notices,
- (b) notices of sale,
- (c) notices under section 120,
- (d) notices respecting goods in storage,
- (e) notices of stay of proceedings,
- (f) any other notice that is not sent to all creditors.

SOR/78-389, s. 6; SOR/96-473, ss. 2 to 4; SOR/98-240, s. 2; SOR/2007-61, ss. 35 to 39, 40(F), 41, 42, 43(F), 44(F), 45, 46(F), 47(F), 48, 49(E), 50(E), 51 to 53, 54(F), 55 to 58, 59(E), 60 to 62, 63(E), 64, 66(F), 67; SOR/2009-270, s. 1; SOR/2010-97, s. 1.

## SCHEDULE II

**[Repealed, SOR/85-167, s. 3]**

## SCHEDULE III

**[Repealed, SOR/98-240, s. 3]**