



Effective Date: 2011/08/01

Number: AN - 9

Title:

Administrative Notice

Bankruptcy Proceedings before the Registrar

Summary:

This Administrative Notice sets out the procedures that must be followed in all hearings set before a Registrar in Bankruptcy. This Administrative Notice is being issued to ensure that the requirements that all bankruptcy hearings be recorded and that a record be kept of the dispositions of all applications are met and to ensure consistency in bankruptcy practice throughout the Province.

Direction:

Bankruptcy Proceedings in General

- 1) All documents prepared for use in bankruptcy proceedings before the Court must be original documents, except where stated that a copy is acceptable.

Scheduling Trustee Opposed Discharge Applications

- 2) A Notice in Form 81 pursuant to the *Bankruptcy and Insolvency Act* Rules is required to set down an application for the hearing of a trustee opposed discharge. The filing of a s. 170 report alone is not sufficient. Absent a Form 81, the application will not be heard. Attached to the Form 81 must be a copy of the draft order sought or a list of expected discharge order terms. It is expected that, in some cases, before the matter is heard the terms sought to apply to the discharge may change.

Requests to Attend by Telephone pursuant to s. 192 of the *Bankruptcy and Insolvency Act*

- 3) Requests by any interested party to appear by telephone must be made to the Registrar by Requisition at least 7 days in advance of the hearing date. The Requisition should state the basis for the request. If a request for telephone attendance is granted the applicant must ensure that the materials set out in paragraph 4 of this Notice are delivered to Supreme Court Scheduling at the registry where the hearing is to be conducted at least 2 business days prior to the date set for hearing.

Materials to be Provided to Registrar in Bankruptcy at the Hearing

- 4) The trustee must hand up to the presiding Registrar in Bankruptcy the following materials:
 - a) Two copies of the draft of the Order sought
 - b) A copy of the filed Form 81 Notice
 - c) S. 170 Report
 - d) Statement of Affairs
 - e) Claims Register
 - f) Copy of the transcript of any examination by Official Receiver, if any
 - g) Spreadsheet showing surplus income calculation (or no surplus if that is the case)
 - h) The bankrupt's three (3) most recent income and expense statements
 - i) A filed copy of any affidavit to be relied upon by the trustee at the hearing
 - j) For self-employed bankrupts, proof of tax remittances made during the post bankruptcy period, if any
 - k) Any other documentation that may be applicable (i.e., copy of self exclusion from gambling, letter from outside counsellor regarding treatment for non-budgetary causes etc.)

Scheduling Multiple Applications

- 5) Trustees must ensure that they book sufficient time for all of their applications to be completed in the allotted time. Trustees who exceed their time estimate may have their remaining matters either stood down to the end of the list to be heard only if time permits or adjourned to another day. Regardless, Trustees may not bring more than 10 applications in any 15 minute time block allotted to them for hearing. Trustees should be conscious of the time it takes to deal with hearings where the bankrupt attends or where there is opposition (other than from the trustee) to the bankrupt's discharge. Trustees may be restricted by the presiding Registrar in Bankruptcy to fewer than 10 applications in these latter instances.

Scheduling Matters with Time Estimates in Excess of 15 Minutes

- 6) All bankruptcy applications expected to require more than 15 minutes of court time shall be scheduled separately at a time and date to be coordinated with Supreme Court Scheduling in the registry in which the application is scheduled to be heard. The provisions of the *Bankruptcy and Insolvency General Rules* relating to motions shall apply to all such hearings.

Robert J. Bauman
Chief Justice