

APPLICATIONS TO WAIVE FEES

A party who alleges he or she is unable to pay court fees may apply for an order relieving them of the obligation to pay the fees to the government. The court must find that the person is unable to pay the fees and that the claim proposed to be made is a reasonable one. An order to waive fees covers the fees set out in Schedule 1 of Appendix C to the Supreme Court Civil and Supreme Court Family Rules. An order to waive fees does not cover the costs of transcripts as those fees are payable to the private company that you choose to prepare the transcript.

Supreme Court Civil Rule 20-5 and Supreme Court Family Rule 20-5 are the rules specific to applications for persons who apply to the court to waive the requirement of paying the fees set out in Schedule 1 of Appendix C to the Supreme Court Civil and Family Rules.

The orders included in this package are templates. If an order is made you will need to prepare a “clean” copy of your order in which you have removed all of the instructions that appear in italics as well as any paragraphs that do not apply. The below link is to the Ministry of Justice website where you will find online fillable forms which you may find helpful in preparing your order. You will need to select the link leading to either Supreme Court “Civil” or “Family” depending what type of proceeding you are involved in:

<https://www2.gov.bc.ca/gov/content/justice/courthouse-services/documents-forms-records/court-forms>

Included in this package are;

- 1) Supreme Court Civil Rule 20-5 – Persons Who are Not Required to Pay Fees
- 2) Civil Form 17 – Requisition
- 3) Civil Form 79 – Order to Waive Fees
- 4) Civil Form 80 – Affidavit in Support of Order to Waive Fees
- 5) Supreme Court Family Rule 20-5 – Persons Who are Not Required to Pay Fees
- 6) Family Form F17 – Requisition
- 7) Family Form F85 – Order to Waive Fees
- 8) Family Form F86 – Affidavit in Support of Order to Waive Fees

Rule 20-5 — Persons Who Are Not Required to Pay Fees

Court may order that no fees are payable

- (1) If the court, on application made in accordance with subrule (3) before or after the start of a proceeding, finds that a person
 - (a) receives benefits under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act*, or
 - (b) cannot, without undue hardship, afford to pay the fees under Schedule 1 of Appendix C in relation to the proceeding,

the court may order that no fees are payable by the person to the government under Schedule 1 of Appendix C in relation to the proceeding unless the court considers that the claim or defence

- (c) discloses no reasonable claim or defence, as the case may be,
- (d) is scandalous, frivolous or vexatious, or
- (e) is otherwise an abuse of the process of the court.

Application of order

- (2) An order under subrule (1) may apply to one or more of the following:
 - (a) a proceeding generally;
 - (b) any part of a proceeding;
 - (c) a specific period of time;
 - (d) one or more particular steps in a proceeding.

How to apply

- (3) An application under subrule (1) may be made by filing
 - (a) a requisition in Form 17,

- (b) a draft of the proposed order in Form 79, and
- (c) an affidavit in Form 80.

Review, variation or rescission of order

- (4) On application or on the court's own motion, the court may review, vary or rescind any order made under subrule (1) or (2).

No fee payable

- (5) Despite anything in this rule, if the court makes an order in relation to a person under this rule, no fee is payable by the person to the government under Schedule 1 of Appendix C in relation to

- (a) the proceeding,
- (b) the part of the proceeding,
- (c) the period of time, or
- (d) the steps

to which the order applies.

proceeding during the following period(s):*[describe period(s)]*..... *[add the following if applicable: subject to the following:[set out any conditions on this order].....]*.

THIS COURT ORDERS that no fee is payable by*[name of person]*..... to the government under Schedule 1 of Appendix C of the Supreme Court Civil Rules in relation to the following steps in this proceeding:*[describe step(s)]*..... *[add the following if applicable: subject to the following:[set out any conditions on this order].....]*.

By the Court

.....
Registrar

This is the affidavit
of in this case
and was made on

No.
..... Registry

In the Supreme Court of British Columbia

Between

Plaintiff(s)

and

Defendant(s)

AFFIDAVIT IN SUPPORT OF ORDER TO WAIVE FEES

I, of
[name] *[address]*

....., SWEAR (OR AFFIRM) THAT:
[occupation]

1. I am the in this proceeding.
[party]
2. I make this affidavit in support of my application for an order directing that I am not required to pay any fees to the government under Schedule 1 of Appendix C of the Supreme Court Civil Rules.
3. I am years old.
4. I have the following dependants: *[List all the dependants in the household.]*

.....
.....
.....

5. The following persons contribute to my household expenses: *[List all in the household who contribute to expenses.]*

.....

6. I am employed unemployed.

7. Attached as Exhibit A is *[Check whichever one of the following boxes is correct and attach the required exhibit.]*

- a financial statement that accurately sets out the monthly income, expenses and assets of my household.
- proof that I receive benefits under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act*.

8. Attached as Exhibit B is an accurate description of my educational and employment history.

9. Attached as Exhibit C is an accurate description of my workplace skills.

10. Attached as Exhibit D is a copy of the document I wish to file or with which I wish to proceed.

SWORN (OR AFFIRMED) BEFORE)
ME at, British Columbia)
on)
)
)
)
.....)
A commissioner for taking)
Affidavits for British Columbia)

..*[print name or affix stamp of commissioner]*..

This is Exhibit A referred to in the affidavit of
....., sworn (or affirmed)
before me on

.....
A commissioner for taking affidavits for
British Columbia

FINANCIAL STATEMENT

ESTIMATE NET MONTHLY INCOME

[Attach proof – i.e. most recent pay stubs or payment advice, etc., if available.]

Estimated net monthly income from all sources:

Employment	\$.....
Pension	\$.....
Dividends	\$.....
Interest	\$.....
Other	<u>\$.....</u>
TOTAL (Estimated net monthly income)	\$.....

ESTIMATED MONTHLY EXPENSES

[Attach receipts for the following, if available.]

Estimated monthly expenses related to housing	\$.....
Estimated monthly expenses related to transportation	\$.....
Estimated monthly expenses related to household expenses	\$.....
Estimated monthly expenses related to medical and dental expenses	\$.....
Estimated monthly expenses related not included in above, related to dependent children	\$.....
Estimated monthly debt payment <i>[specify]</i>	\$.....
Estimate of other monthly expenses <i>[specify]</i>	<u>\$.....</u>
TOTAL (Estimated monthly expenses)	\$.....

ASSETS

[Specify assets and set out their estimated value.]

.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
.....	<u>\$.....</u>
TOTAL (Estimated asset values)	\$.....

This is Exhibit B referred to in the affidavit of
....., sworn (or affirmed)
before me on

.....
A commissioner for taking affidavits for
British Columbia

EDUCATIONAL AND EMPLOYMENT HISTORY

[Set out details of education and employment history.]

1. Highest level of education attained and date completed:

.....
.....
.....

2. Employment history:

Employer	Dates	Position
.....
.....
.....

This is Exhibit C referred to in the affidavit of
....., sworn (or affirmed)
before me on

.....
A commissioner for taking affidavits for
British Columbia

WORKPLACE SKILLS

[specify]

.....
.....
.....

Rule 20-5 — Persons Who Are Not Required to Pay Fees

Court may order that no fees are payable

- (1) If the court, on application made in accordance with subrule (3) before or after the start of a family law case, finds that a person
 - (a) receives benefits under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act*, or
 - (b) cannot, without undue hardship, afford to pay the fees under Schedule 1 of Appendix C in relation to the family law case,

the court may order that no fee is payable by the person to the government under Schedule 1 of Appendix C in relation to the family law case unless the court considers that the claim or defence

- (c) discloses no reasonable claim or defence, as the case may be,
- (d) is scandalous, frivolous or vexatious, or
- (e) is otherwise an abuse of the process of the court.

Application of order

- (2) An order under subrule (1) may apply to one or more of the following:
 - (a) a family law case generally;
 - (b) any part of a family law case;
 - (c) a specific period of time;
 - (d) one or more particular steps in a family law case.

How to apply

- (3) An application under subrule (1) may be made by filing

- (a) a requisition in Form F17,
- (b) a draft of the proposed order in Form F85, and
- (c) an affidavit in Form F86.

Review, variation or rescission of order

- (4) On application or on the court's own motion, the court may review, vary or rescind any order made under subrule (1) or (2).

No fee payable

- (5) Despite anything in this rule, if the court makes an order in relation to a person under this rule, no fee is payable by the person to the government under Schedule 1 of Appendix C in relation to
 - (a) the family law case,
 - (b) the part of the family law case,
 - (c) the period of time, or
 - (d) the stepsto which the order applies.

Form F17

Court File No.:

Court Registry:

In the Supreme Court of British Columbia

Claimant:

Respondent:

REQUISITION

Filed by:

[party(ies)]

Required: Order to Waive Fees

This requisition is supported by the following:

[Include a description of supporting document(s). Each affidavit included on the list must be identified as follows: "Affidavit # ...[sequential number, if any, recorded in the top right hand corner of the affidavit]... of[name]....., made[dd/mmm/yyyy].....".]

1. Form F85 – Order to Waive Fees

2. Form F86 – Affidavit in Support of Order to Waive Fees, Affidavit #..... of

....., made

Date:

.....

Signature of

filing party lawyer for filing party(ies)

.....

[type or print name]

In the Supreme Court of British Columbia

Claimant:

Respondent:

ORDER TO WAIVE FEES

[Rule 21-1 of the Supreme Court Family Rules applies to all forms.]

[Complete the form in accordance with the instructions found in the bracketed italicized wording and then remove all bracketed italicized wording so that it does not appear in the form when the form is filed.]

BEFORE) THE HONOURABLE JUSTICE)
) or)[dd/mmm/yyyy].....
) ASSOCIATE JUDGE)

ON THE APPLICATION of[name]..... *[add, if applicable, coming on before me on[dd/mmm/yyyy]..... and on hearing[name of party/lawyer]..... and[name of party/lawyer].....];*

[Select whichever one of the 4 following provisions is correct, complete the selected provision and remove the provisions that have not been selected so that they do not appear in the form when the form is filed.]

THIS COURT ORDERS that no fee is payable by[name of person]..... to the government under Schedule 1 of Appendix C of the Supreme Court Family Rules in relation to this family law case *[add the following if applicable: subject to the following:[set out any conditions on this order].....].*

THIS COURT ORDERS that no fee is payable by[name of person]..... to the government under Schedule 1 of Appendix C of the Supreme Court Family Rules in relation to the following part(s) of this family law case:[describe part(s)]..... *[add the following if applicable: subject to the following:[set out any conditions on this order].....].*

THIS COURT ORDERS that no fee is payable by[name of person]..... to the government under Schedule 1 of Appendix C of the Supreme Court Family Rules in relation to this family law case during the following period(s):[describe period(s)]..... *[add the following if applicable: subject to the following:[set out any conditions on this order].....].*

THIS COURT ORDERS that no fee is payable by[name of person]..... to the government under Schedule 1 of Appendix C of the Supreme Court Family Rules in relation to the following steps in this family law case:[describe step(s)]..... *[add the*

following if applicable: subject to the following:[set out any condition on this order].....].

By the Court

.....
Registrar

This is the affidavit
of in this case
and was made on

Court File No.:

Court Registry:

In the Supreme Court of British Columbia

Claimant:

Respondent:

AFFIDAVIT IN SUPPORT OF ORDER TO WAIVE FEES

I, of
[name] *[address]*

....., SWEAR (OR AFFIRM) THAT:
[occupation]

1. I am the in this family law case.
[party]
2. I make this affidavit in support of my application for an order that I be declared impoverished with respect to the payment of fees set out in Schedule 1 of Appendix C of the Supreme Court Family Rules.
3. I am years old.
4. I have the following dependants: *[List all the dependants in the household.]*
.....
.....
.....
5. The following persons contribute to my household expenses: *[List all in the household who contribute to expenses.]*
.....
6. I am employed unemployed.

7. Attached as Exhibit A is *[Check whichever one of the following boxes is correct and attach the required exhibit.]*
- a financial statement that accurately sets out the monthly income, expenses and assets of my household.
 - proof that I receive benefits under the *Employment and Assistance Act* or the *Employment and Assistance for Persons with Disabilities Act*.
8. Attached as Exhibit B is an accurate description of my educational and employment history.
9. Attached as Exhibit C is an accurate description of my workplace skills.
10. Attached as Exhibit D is a copy of the document I wish to file or with which I wish to proceed.

SWORN (OR AFFIRMED) BEFORE)
 ME at, British Columbia)
 on)
)
)
)
)
)
 A commissioner for taking)
 Affidavits for British Columbia)

..[print name or affix stamp of commissioner]..

This is Exhibit A referred to in the affidavit of
....., sworn (or affirmed)
before me on

.....
A commissioner for taking affidavits for
British Columbia

FINANCIAL STATEMENT

ESTIMATE NET MONTHLY INCOME

[Attach proof – i.e. most recent pay stubs or payment advice, etc., if available.]

Estimated net monthly income from all sources:

Employment	\$.....
Pension	\$.....
Dividends	\$.....
Interest	\$.....
Other	<u>\$.....</u>
TOTAL (Estimated net monthly income)	\$.....

ESTIMATED MONTHLY EXPENSES

[Attach receipts for the following, if available.]

Estimated monthly expenses related to housing	\$.....
Estimated monthly expenses related to transportation	\$.....
Estimated monthly expenses related to household expenses	\$.....
Estimated monthly expenses related to medical and dental expenses	\$.....
Estimated monthly expenses related not included in above, related To dependent children	\$.....
Estimated monthly debt payment <i>[specify]</i>	\$.....
Estimate of other monthly expenses <i>[specify]</i>	<u>\$.....</u>
TOTAL (Estimated monthly expenses)	\$.....

ASSETS

[Specify assets and set out their estimated value.]

.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
.....	<u>\$.....</u>
TOTAL (Estimated asset values)	\$.....

This is Exhibit B referred to in the affidavit of
....., sworn (or affirmed)
before me on

.....
A commissioner for taking affidavits for
British Columbia

EDUCATIONAL AND EMPLOYMENT HISTORY

[Set out details of education and employment history.]

1. Highest level of education attained and date completed:

.....
.....
.....

2. Employment history:

Employer	Dates	Position
.....
.....
.....

This is Exhibit C referred to in the affidavit of
....., sworn (or affirmed)
before me on

.....
A commissioner for taking affidavits for
British Columbia

WORKPLACE SKILLS

[specify]

.....
.....
.....