

**Form 18: Exemption From Payment of Fees and Charges**

The purpose of this form is to apply for an exemption or suspension from all or part of the payment of fees or charges associated with an appeal.

Note: “fees and charges” refers only to the fees and charges listed under the *Supreme Court Fees Regulations*, NLR 90/07. These are generally disbursements such as the cost of an audio recording or a transcript, or copying materials. They do not include general costs of the appeal, such as costs for lawyers under rule 58 and the Scale of Costs.

The affidavit is a very important part of this application.

You should read rule 44 before filing out the form.

On the form fill out the following:

The heading: Use the same heading as is used in the Notice of Appeal. (See guideline 1.)

The style of cause: Use the same style of cause as is used in the Notice of Appeal. (See guideline 1.)

When the application will be heard: When you are filing the application the Court registry will fill out the bottom portion of the form, which states the date and time when the application will be heard.

Date and sign the form. Attach the supporting affidavit.

The Affidavit

The purpose of the affidavit is to provide the Court with the facts in support of your application for an exemption from or the suspension of fees and charges.

Note: the affidavit is sworn evidence equivalent to giving testimony in Court. By signing the affidavit and swearing or affirming that the contents of the affidavit and any attached exhibits are true you are giving testimony. You may be cross-examined by the other party or the Court on the content of the affidavit. It is an offence to knowingly give false information.

In the body of the affidavit set out the facts which support your application. Number the paragraphs. Each paragraph should address one fact.

You may adopt and expand on the statements already given in the form if they apply to you. Do not adopt statements which do not apply to your situation. You should add anything else that is relevant regarding your ability to pay and the public interest in your appeal. The Court considers the following factors:

- (a) undue hardship that would result from the payment of fees and charges or a portion thereof,
- (b) whether the applicant is in receipt of social assistance,
- (c) steps taken by the applicant to arrange his or her finances, making reasonable sacrifices, to enable payment of all or a portion of the fees and charges payable for the appeal,
- (d) whether the applicant applied for and was refused legal aid under a provincial plan providing legal aid or similar services,
- (e) whether the appeal is frivolous or vexatious in the sense that there is no arguable basis or sufficient merit for the appeal, and
- (f) whether the appeal is brought for a public purpose and the applicant has standing to pursue the appeal.

Exhibits: You may also have documents that are relevant to your application. You should describe each document in a paragraph in your affidavit and give it an exhibit number. For example:

Attached as Exhibit A to this affidavit is a copy of a letter to me from ... dated ...

A copy of the document should be attached and labelled as Exhibit A. All exhibits must already be attached to the affidavit at the time it is sworn.

You must swear or affirm the affidavit in front of a Commissioner authorized to take affidavits. **Do not sign the affidavit until a Commissioner can observe you.** This person may be a lawyer, a notary public or other Commissioner. A court clerk who performs a registry function at the Court of Appeal is an authorized Commissioner.

Filing and serving the application: See rules 30 (time limits) and 28 (how to file and deliver a document). Make sure you file and serve the materials at least 4 days before the application will be heard to give the other parties notice.

A Respondent may file materials in response to the application. Generally, these must be filed 2 days before the application is to be heard (rule 30(2)).

The Court may agree to hear the application without requiring you to give notice to the other parties.