

The Fee Waiver Regulations

being

[Chapter F-13.1001 Reg 1](#) (effective February 26, 2016).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER F-13.1001 REG 1

The Fee Waiver Act

Title

1 These regulations may be cited as *The Fee Waiver Regulations*.

Interpretation

2(1) In these regulations:

“**Act**” means *The Fee Waiver Act*;

“**applicant**” means a person who applies for a fee waiver certificate pursuant to section 3 of the Act;

“**assets**” means assets that are money or can readily be converted into money at the time an applicant applies for a fee waiver certificate, but does not include:

- (a) a primary residence;
- (b) household furnishings or appliances in the primary residence;
- (c) clothing; or
- (d) medical and dental aids or similar devices required or ordinarily used by the applicant or a member of the applicant’s household;

“**household**” includes the applicant and any of the following persons who reside with the applicant:

- (a) a person in a spousal relationship with the applicant;
- (b) a dependent child;
- (c) a member of the applicant’s extended family who is dependent on the applicant for support;

“**material change in circumstances**” means a change in circumstances that is likely to affect a person’s eligibility for a fee waiver certificate;

“**special circumstances**” means circumstances as set out in section 5.

(2) For the purposes of the Act and in these regulations, “**Court of Appeal**” includes a judge of the Court of Appeal as defined in *The Court of Appeal Act, 2000*.

31 Dec 2015 cF-13.1001 Reg 1 s2.

Application form

3 An application for a fee waiver certificate pursuant to subsection 3(1) of the Act must be in Form A of the Appendix.

31 Dec 2015 cF-13.1001 Reg 1 s3.

Fee waiver certificate requirements

4 For the purposes of clause 3(4)(a) of the Act, an applicant is eligible for a fee waiver certificate if the applicant meets one or more of the following requirements:

- (a) the applicant is receiving assistance pursuant to:
 - (i) *The Saskatchewan Assistance Act*, as an individual or as part of a family unit; or
 - (ii) *The Training Allowance Regulations*;
- (b) the applicant is receiving legal assistance or representation from any of the following organizations, including any of the same organizations operating from time to time under another name:
 - (i) The Saskatchewan Legal Aid Commission;
 - (ii) Pro Bono Law Saskatchewan;
 - (iii) Community Legal Assistance Services for Saskatoon Inner City Inc., (CLASSIC);
- (c) the applicant confirms that:
 - (i) the applicant's before-tax annual household income is not greater than the low-income cut-off established by Statistics Canada for a household of that size for the most recent year for a census metropolitan area between 100,000 and 499,999 inhabitants; and
 - (ii) the total value of all assets owned by the members of the applicant's household, after taking into account any outstanding debt that is owed for the assets, does not exceed \$10,000.

31 Dec 2015 cF-13.1001 Reg 1 s4.

Application for fee waiver certificate in special circumstances

5 For the purposes of clauses 2(1)(h) and 3(4)(b) of the Act, "special circumstances" occur if an applicant demonstrates that the applicant is unable to pay a fee as a result of exceptional or unusual events or circumstances affecting the applicant or a member of the applicant's household, including but not limited to the following:

- (a) recent loss of employment;
- (b) illness or medical expenses;
- (c) personal emergencies;
- (d) the applicant's financial dependence on a spouse or other person who is or will be an opposing party in the proceeding with respect to which the fee waiver certificate is sought.

31 Dec 2015 cF-13.1001 Reg 1 s5.

No fee waiver if agreement exists with lawyer

6 Notwithstanding sections 4 and 5, no applicant is eligible for a fee waiver certificate if:

- (a) the applicant has entered into an agreement with a lawyer in accordance with section 41 of *The Class Actions Act* by which the applicant is not liable for fees and disbursements or is only liable for fees and disbursements in the event of a successful claim; or
- (b) the applicant has entered into a contingent fee agreement or any other form of agreement with a lawyer, other than a lawyer providing services through an organization described in clause 4(b), by which the applicant is not liable for fees and disbursements or is only liable for fees and disbursements in the event of a successful claim.

31 Dec 2015 cF-13.1001 Reg 1 s6.

Evidence to support application

7(1) An official, court or public body, as the case may be, may require an applicant to provide evidence that is reasonable in the circumstances to demonstrate to the satisfaction of the official, court or public body that the applicant:

- (a) meets the requirements set out in section 4 or 5; and
- (b) has not entered into an agreement described in section 6.

(2) If an applicant fails to provide evidence at the request of an official, court or public body in accordance with subsection (1), the official, court or public body may refuse to issue a fee waiver certificate to the applicant.

31 Dec 2015 cF-13.1001 Reg 1 s7.

Waiver of requirement to apply

8(1) For the purposes of subsection 3(7) of the Act, an official may waive the requirement for a person to apply for a fee waiver certificate if:

- (a) the person has previously been issued a fee waiver certificate by a court or public body and confirms that he or she has not experienced a material change in circumstances; or
- (b) the court or public body, as the case may be, for which the official has been assigned responsibility to administer fee waiver certificates determines, based on evidence before the court or public body, that the person is eligible for a fee waiver certificate.

(2) For the purposes of clause (1)(a), an official may require an applicant to provide evidence that is reasonable in the circumstances to demonstrate that there has not been a material change in circumstances.

31 Dec 2015 cF-13.1001 Reg 1 s8.

If application is denied

9 If an official, court or public body refuses to issue a fee waiver certificate to an applicant, the applicant shall not reapply for a fee waiver certificate unless:

- (a) there is a material change in circumstances; or
- (b) the applicant obtains additional information or evidence that demonstrates to the satisfaction of the official, court or public body that the applicant meets the eligibility requirements set out in section 4.

31 Dec 2015 cF-13.1001 Reg 1 s9.

Prescribed fees

10 For the purposes of clause 2(1)(b) and section 5 of the Act, the fees set out in Table 1 of the Appendix are the prescribed fees of courts and public bodies.

31 Dec 2015 cF-13.1001 Reg 1 s10.

Obligation to report material change in circumstances

11 An applicant who is issued a fee waiver certificate must report any material change in circumstances to the official, court or public body that issued the fee waiver certificate or, if the requirement to apply for a fee waiver certificate was waived pursuant to section 8, to the official who waived the requirement to apply for a fee waiver certificate.

31 Dec 2015 cF-13.1001 Reg 1 s11.

Cancellation of fee waiver certificate

12(1) An official, court or public body, as the case may be, may cancel a fee waiver certificate if the official, court or public body determines that:

- (a) the information or evidence provided by the applicant in support of his or her application for a fee waiver certificate was incorrect with respect to a requirement affecting the applicant's eligibility;
- (b) the fee waiver certificate was erroneously given;
- (c) the holder of the fee waiver certificate has entered into an agreement described in clause 6(a) or (b); or
- (d) there has been any other material change in circumstances that, in the opinion of the official, court or public body, causes the holder of the fee waiver certificate to no longer meet the requirements of section 4 or 5.

(2) In addition to subsection (1), a court or public body may cancel a fee waiver certificate if the court or public body determines that:

- (a) there has been frivolous, vexatious or abusive conduct on the part of the holder of the fee waiver certificate before the court or public body;

- (b) the holder of the fee waiver certificate failed to attend proceedings or take part in any required step in the matter before the court or public body without valid excuse; or
 - (c) the holder of the fee waiver certificate failed to comply with an order or request of the court or public body without valid excuse.
- (3) Before cancelling a fee waiver certificate in accordance with subsection (1) or (2), an official, court or public body may provide the holder of a fee waiver certificate an opportunity to make representations.
- (4) An official, court or public body that cancels a fee waiver certificate in accordance with this section shall provide written notice of the cancellation to the holder of the fee waiver certificate.
- (5) If a fee waiver certificate is cancelled in accordance with this section, the fee waiver certificate ceases to have effect on and after the later of:
- (a) the date on which the holder of the fee waiver certificate receives notice of the cancellation in accordance with subsection (4); and
 - (b) any other date chosen by the official, court or public body, as the case may be.

31 Dec 2015 cF-13.1001 Reg 1 s12.

Use of applicant information

13 No official, court or public body shall use the information provided in an application for a fee waiver certificate or provided pursuant to subsection 8(2) for any purpose other than for the purpose of administering and enforcing the Act and these regulations.

31 Dec 2015 cF-13.1001 Reg 1 s13.

Coming into force

14(1) Subject to subsection (2), these regulations come into force on the day on which section 1 of *The Fee Waiver Act* comes into force.

(2) If section 1 of *The Fee Waiver Act* comes into force before the day on which these regulations are filed with the Registrar of Regulations, these regulations come into force on the day on which they are filed with the Registrar of Regulations.

31 Dec 2015 cF-13.1001 Reg 1 s14.

Appendix

FORM A

**Application for Fee Waiver Certificate for
[insert name of court or public body]
[Section 3]**

NOTE: If you have previously been issued a Fee Waiver Certificate with respect to this matter or any other matter, you may be eligible for a new fee waiver certificate without having to reapply. Please notify [*the appropriate official at the court or public body for which the applicant wishes to receive a fee waiver certificate*] of any previous certificate you have been issued, and, if possible, provide a copy of the certificate.

(PLEASE PRINT CLEARLY)

1. My name is (full legal name): _____

2. My mailing address, phone number and email address, if applicable, is:

3. Court/file number (if applicable): _____

4. Do you receive assistance pursuant to *The Saskatchewan Assistance Act*, as an individual or as a part of a family unit, or pursuant to *The Training Allowance Regulations*?

Yes (if yes, please indicate the type(s) of support): _____
No

5. Are you receiving legal assistance or representation from one of the following organizations:

- a. The Saskatchewan Legal Aid Commission;
- b. Pro Bono Law Saskatchewan;
- c. Community Legal Assistance Services for Saskatoon Inner City Inc. (CLASSIC)?

Yes (if yes, please name the organization): _____
No

If you responded “Yes” to either of questions 4 or 5, please proceed to question 8.

If you responded “No” to questions 4 and 5, please answer questions 6 and 7.

6. Please answer the following:

a. The number of people who reside in my household, including me, my spouse, dependent children and other dependent extended family members is _____ .

b. The total annual income for my household, before deductions (e.g., income taxes, Canada Pension Plan, Employment Insurance), is: _____ .

c. The value of my household's assets, after subtracting any outstanding debt owing on these assets, is below \$10,000:

Yes No Please list these assets on the lines below:

NOTE: When calculating the value of your household assets, exclude the primary residence (family home) and its furnishings and appliances, clothing and medical and dental aids or similar devices. Include bank accounts, cash, land (other than the land that the family home is located on), vehicles and recreational devices (boats, motor homes and ATVs), second homes or cottages and other similar assets.

7. In certain cases, an applicant who does not meet normal eligibility requirements for a fee waiver certificate may still qualify for a certificate under special circumstances. Examples of special circumstances may include recent loss of employment, medical expenses or financial dependence on an opposing party (such as a spouse in family law proceedings). Please describe below any special circumstances affecting you or the members of your household that you would like to have considered as part of your application. If you require extra room, please attach an additional page.

8. Are you being represented by a lawyer, other than a lawyer who is providing legal services through an organization named in question 5?

Yes No

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9. If you answered “Yes” to question 8, have you entered into an agreement with the lawyer by which you are not required to pay the cost of fees and disbursements (costs such as court filing fees) or are only required to pay the cost of fees and disbursements if you are successful in your matter?

Yes No

I certify that this information is true and complete to the best of my knowledge and belief, and agree to provide any materials or records, if requested, to confirm the information in this application. I understand that if any of the information I have provided in this application changes in the future, I must report this change to the *[insert name of court or public body]*.

Date

Signature of Applicant

NOTE: The official, court or public body that is administering your fee waiver application may request additional evidence to support your application. You may be denied a fee waiver certificate if you fail to provide materials or records that are requested in support of this application. Information provided in this application will be used solely for the purpose of assessing your eligibility for a fee waiver certificate pursuant to *The Fee Waiver Act*.

(For Office Use Only)

Applicant is eligible for a fee waiver certificate pursuant to *The Fee Waiver Act*.

Yes No

Date

Signature of Issuer

TABLE 1

Prescribed Fees
[Section 10]

| Court or Public Body | Prescribed Fees |
|-------------------------------------|--|
| Court of Appeal | Any fee payable to the registrar pursuant to <i>The Court of Appeal Fees Regulations, 2000</i> . |
| Court of Queen's Bench | Any fee payable to a local registrar pursuant to section 9 of <i>The Queen's Bench Regulations</i> . Any fee payable by a person who is represented by The Saskatchewan Legal Aid Commission to the Government of Saskatchewan for transcript services and other reproductions of trial proceedings pursuant to section 12 of <i>The Queen's Bench Regulations</i> . Any fee payable to a sheriff pursuant to <i>The Queen's Bench Regulations</i> , <i>The Enforcement of Money Judgments Act</i> and <i>The Enforcement of Money Judgments Regulations</i> . |
| Small Claims Court | Any fee payable pursuant to subsection 11(2) or 14(1) of <i>The Small Claims Act, 1997</i> . |
| Automobile Injury Appeal Commission | Any fee payable to the Automobile Injury Appeal Commission pursuant to subsection 193(3) of <i>The Automobile Accident Insurance Act</i> . |
| Office of Residential Tenancies | Any fee payable to the Director of Residential Tenancies pursuant to subsection 70(2) or clause 76(2)(b) of <i>The Residential Tenancies Act, 2006</i> . |

