

# Considering Bankruptcy

Bankruptcy is a legal process that can provide relief to honest but unfortunate individuals who are unable to pay their debts.

## **A creditor is harassing me daily. What should I do?**

Although the regulations differ slightly across Canada, there are limits on what creditors and collection agencies are allowed to do. For example, they cannot make telephone calls of such a nature or frequency that they amount to harassment of you or your family. In addition, there are certain times when they are not allowed to call. (These times vary, depending on where you live.)

## **What happens if you file for bankruptcy**

If bankruptcy is the option you choose, you will work with the trustee to complete the required forms. The trustee will then file these documents with the OSB and you will be formally declared bankrupt.

From that point on, the trustee will deal directly with your creditors on your behalf. Once you have been declared bankrupt

- you will stop making payments directly to your unsecured creditors;
- any garnishments against your salary will stop; and
- any lawsuits against you by your creditors will also be stopped.

## **Your assets will be sold by the trustee**

Once you have been declared bankrupt, the trustee sells your assets, including any acquired during your bankruptcy. Assets that are exempted by provincial and federal laws are excluded from this sale. The trustee will hold the money raised by the sale in trust for distribution to your creditors.

## **Your creditors will be notified**

After you declare bankruptcy, the trustee will notify all your creditors about your bankruptcy.

## **Your creditors may hold a meeting**



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Sometimes, a meeting of creditors is required or requested. At the meeting, creditors can obtain information about the bankruptcy and give direction to the trustee. If a meeting is called, you will be required to attend.

### **You may be examined by the OSB**

After you file for bankruptcy, a representative of the OSB may examine you under oath. The purpose of the examination is to ask you about your conduct, the causes of the bankruptcy and the disposition of your property.

### **You will attend two financial counselling sessions**

As part of your bankruptcy, you will be required to attend two financial counselling sessions. The purpose of these sessions is to help you understand the causes of your bankruptcy and to assist you in managing your financial affairs in the future.

### **You may make "surplus income" payments**

In addition to paying the trustee's fees, you may be required to make additional payments to your trustee for distribution to your creditors. These are called surplus income payments.

Surplus income is the part of your earnings that exceeds the amount of income a family needs to maintain a reasonable standard of living. This amount is set by the OSB annually. The larger your family, the more you are allowed to keep; the more you earn, the more you are required to contribute.

**If your surplus income is more than \$200 per month, you will be required to contribute 50 percent of that amount.**

### **You will be discharged from bankruptcy**

A discharge releases you from the legal obligation to repay the debts you had as of the date you filed for bankruptcy, except for specific types of debts that are excluded by law. These include alimony and child support payments, [student loans](#) (if you stopped being a student less than seven years ago), court-ordered fines or penalties, and debts arising from fraud.

The timing of your discharge depends on a number of factors, including whether this is your first bankruptcy, and whether you are required to make surplus income payments.



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<http://www.ic.gc.ca/eic/site/bsf-osb.nsf/eng/br02048.html>

(Excerpt from the Office of the Superintendent of Bankruptcy Website)