

Federal Court

How do I file a Notice of Application for Judicial Review?

Proceedings in a court of law can be complicated. As such, you may wish to seek legal advice. For every rule, there are a variety of exceptions and particular applications to specific facts. There are also many ways to seek relief. All these instances cannot be put into this document. The following information is for guidance only. **The Registry cannot give legal advice.**

What is required to file an Application for Judicial Review?

Applications for judicial review are governed by rules 300 to 319 of Part 5 of the *Federal Courts Rules* (and corresponding forms) as well as by section 18.1 of the *Federal Courts Act*.

1. Your Notice of Application for judicial review in respect of a decision or order of a federal board, commission or other tribunal must be limited to the review of a single decision, unless the Court orders otherwise (see rule 302) and must be filed within 30 days after the time the decision or order was first communicated to you (see section 18.1(2) of the *Federal Courts Act*). Rule 301 sets out what must be included in your Notice of Application and rule 303 indicates who must be named as respondent.

Please note there may be other statutory limitation periods within which you must file your application, either longer or shorter than the 30 days provided in subsection 18.1(2) mentioned above. You may wish to consult the relevant statute to review the time limits for filing your application.

2. You must pay a filing fee of \$50.00, pursuant to Tariff A, 1.(1)(d) at the time of filing your Notice of Application by using a valid VISA, MasterCard or American Express credit card or by cash, debit, a personal cheque or a money order. When paying by personal cheque or money order, it must be made payable to the Receiver General of Canada.
3. You must deliver to the Registry as many copies of the Notice of Application as you will need to serve (see paragraphs 4 and 5 below). The Registry will certify these copies of your Notice of Application, by stamping them. The Registry will keep the original of your Notice of Application and will return the other certified copies to you.

Once I have filed my Notice of Application, is there anything else I need to do?

Yes. There are many steps you need to take after you have filed your Notice of Application and it has been issued by the Registry. You are responsible for taking these steps within the time limits provided in the *Federal Courts Rules*. Some of these steps are explained below, but please note that there may be other important steps you may need to take that are not set out herein.

4. Within 10 days of the issuance of your Notice of Application, you must serve a certified copy of it on the respondent(s), that is, the federal board, commission or tribunal whose decision you are challenging and any other person(s) required to be

served by rule 304. Since a Notice of Application is an originating document, you must serve it in person by delivering a certified copy of your Notice of Application to each respondent (see Rules 127 to 137). It is your responsibility to identify the respondents and to serve them.

5. Personal service on the Crown, the Attorney General of Canada or any other Minister of the Crown of your Notice of Application (but of no other document you may need to serve) will be done by the Registry pursuant to rule 133. For this, the Registry will need you to provide them with two additional copies of your Notice of Application.

6. You must file proof of service with the Registry within 10 days of serving your Notice of Application on all the respondents (see rule 146 and forms 146 A-B).

7. Within 30 days after issuance of your Notice of Application, any affidavits and supporting documents you may wish to rely on in support of your Notice of Application (see rules 306 and 80-81 and form 80A) must be served on the respondent(s) and you must file proof of that service with the Court. Your supporting affidavits and documents need not be filed at this time but must be included in your application record (see step 9 below).

8. The respondents may also serve affidavits and file proof of service with the Registry (see rule 307). All cross-examinations on affidavits must be completed within the time period set out in rule 308.

9. You must serve and file your application record within 20 days of the end of the time period for cross-examination set out in rule 308. (See rule 309 for the required content of your application record).

10. Once you have served and filed your application record, the respondent has 20 days to serve and file a respondent's record. When you have been served with the respondent's record or the 20 days set out in rule 310 have passed, you are ready to have your case heard by a Judge of the Federal Court. Within 10 days (see rule 314) you must serve and file a Requisition for Hearing. You must also pay a filing fee of \$50.00 pursuant to Tariff A, 1.(2)(f).

Can I represent myself?

Yes. Pursuant to rule 119, an individual may act in person or be represented by a lawyer in a proceeding. This means you may represent yourself in this matter; however, it is recommended that you seek the advice of a lawyer to assist you. Companies, associations or groups of people must be represented by a lawyer (see rule 120).

Please read the information about Registry Services to Assist Self-Represented Litigants, indicating what Federal Court Registry staff can and cannot do to help you prepare your case, should you decide to proceed.

Are there any other fees I will need to pay?

The fees most commonly charged are set out in paragraphs 2 and 10 above. Other Court services may require the payment of a fee. The complete list of registry fees is contained in Tariff A. It is also recommended that you read Part 11 of the *Federal Courts Rules*, which deals with the awarding of costs between the parties and the determination of which party must pay the other's costs, related to the proceeding.

What if more than 30 days have gone by since the decision being challenged was communicated?

If it has been more than 30 days since the decision or order was first communicated to you by the federal board, commission or tribunal, you must file a motion requesting an extension of time to file your Notice of Application for judicial review (see subsection 18.1(2) of the *Federal Courts Act*).

1. A motion is started by a Notice of Motion which sets out the precise order you are seeking from the Court, the grounds you intend to argue and a list of documents or other material you intend to rely on (see rule 359 and form 359). In most cases, an affidavit is required (see rule 363). Your Notice of Motion must clearly indicate whether you wish the Court to review your motion at an oral hearing or in writing (see rules 360 and 369). If you wish to present your motion at an oral hearing, you must take into account the minimum time requirement provided between the service and filing of your Motion Record and the date of hearing (see rules 362 and 364). Motions may be heard at the regularly scheduled General Sittings (see rules 34 and 360). *Please note that motions for the extension of time to file a Notice of Application are most often dealt with in writing.*

2. Generally, a Notice of Motion is filed as part of your Motion Record (see rules 364 and 367). Once you have written your Notice of Motion, the next step is to prepare your Motion Record which must contain, among other things:

- a. Your Notice of Motion requesting an extension of time;
- b. Any supporting affidavit(s) which should set out the facts you intend to rely on in support of your motion (see rules 80-81, 363 and form 80A);
- c. Written representations justifying your request for an extension of time; and
- d. Any other filed material necessary for the motion.

3. You must serve a copy of your Motion Record upon the respondent(s).

4. You will then need to file 3 copies of your Motion Record with the Registry, together with proof of service of your Motion Record upon the respondent(s) (see rule 146 and form 146) **and** you will need to pay a filing fee of \$20.00, pursuant to Tariff A, 1.(2)(a).

To assist you with what is required to file a Motion for extension of time, please refer to rules 8, 73, 80 and 359 – 369 of the *Federal Courts Rules*.

Can I deal with any office of the Federal Court?

Yes. You may deal with the office of the Registry of the Federal Courts which is most convenient to you. A list of the Federal Court office locations, addresses and phone numbers is accessible on our website under “Registry”.