

# Registrars' Bankruptcy & General Matters - Standard Orders

## Sequestration Orders

The Court orders that:

1. The estate of [name of debtor] be sequestrated under the *Bankruptcy Act 1966*.
2. The Applicant Creditor's costs fixed in the sum of \$[amount] be paid from the estate(s) of the Respondent Debtor(s) in accordance with the *Bankruptcy Act 1966*.

**OR**

The Applicant Creditor's costs (including reserved costs) be taxed and paid from the estate of the Respondent Debtor(s) in accordance with the *Bankruptcy Act 1966*.

The Court notes that the date of the act of Bankruptcy is [date].

The Court also notes that a consent to act as trustee signed by [name of trustee(s)] has been served.

## Amend Paragraph 4 of CP

The Court orders that:

1. The Creditor's Petition be amended by altering the date of the act of bankruptcy in Paragraph 4 to [insert].
2. The requirement to file an amended Creditor's Petition be dispensed with.

## Extension of Life of CP

The Court orders that:

1. Pursuant to s52(5) of the *Bankruptcy Act 1966* (Cth) the period at the expiration of which the Creditor's Petition filed in these proceedings will lapse will be 24 months commencing on [insert].

## Administration of Deceased Estate Order

The Court orders that:

1. The estate of the deceased, [insert], be administered under Part XI of the *Bankruptcy Act 1966*.
2. The Applicant Creditor's costs be fixed in the amount of \$[insert] and be paid from the deceased's estate in accordance with the *Bankruptcy Act 1966*.

**OR**

The Applicant Creditor's costs (including reserved costs) be taxed and be paid from the deceased's estate in accordance with the *Bankruptcy Act 1966*.

## Interim Application for Substitution

The Court orders that:

1. The Applicant be excused from appearing before the Court at future return dates.
2. The supporting creditor, [insert], file and serve any Interim Application to be substituted on the Creditor's Petition as the Applicant and any supporting affidavits by [date].
3. The Creditor's Petition and any Interim Application for substitution be adjourned to [insert].
4. The Supporting Creditor notify the parties not appearing today of the details of time, date and place of the next court date and any other orders made.

## Substitution of Supporting Creditor

The Court orders that:

1. **[insert]** be substituted on the Creditor's Petition as the Applicant (the substituted Applicant).
2. The substituted Applicant file an amended (and verified) Petition on or before **[insert]**.
3. The substituted Applicant serve a sealed copy of this Order and the amended Petition on the Respondent debtor on or before **[insert]**.

## Dismissal of Creditor's Petition

The Court orders that:

1. The Petition against the Respondent(s) be dismissed.
2. The Respondent(s) pay the Applicant Creditor's costs (including reserved costs) of the Petition [fixed/ agreed in the amount of **[\$[insert] OR** as agreed or taxed].

**OR**

Each party pay their own costs of the proceeding/ No order as to costs.

3. A copy of this order be provided by the Applicant Creditor to the Official Receiver in Sydney within 2 days.

## Debtor's Petition (Bill Served)

The Court orders that:

1. The Petition against the Respondent(s) be dismissed.
2. The Applicant Creditor's costs of the Petition be fixed in the amount of **[\$[insert]** and be paid from the estate of the Respondent Debtor with the same priority as if a sequestration order had been made.
3. A copy of this order be provided by the Applicant Creditor to the Official Receiver in Sydney within 2 days.

Note: A Debtor's Petition was accepted by the Official Receiver on **[insert]**.

## Debtor's Petition (Bill NOT Served)

The Court orders that:

1. The Petition against the Respondent(s) be dismissed.
2. The Applicant Creditor's costs of the Petition be fixed in the amount of **[\$[insert]** and be paid from the estate of the Respondent Debtor with the same priority as if a sequestration order had been made.
3. The Applicant serve a copy of this order upon the Trustee (as the costs respondent) within 7 days.
4. The Trustee may apply to vary order 2 within 7 days of receiving a copy of this order.
5. A copy of this order be provided by the Applicant Creditor to the Official Receiver in Sydney within 2 days.

The Court notes that:

6. A Debtor's Petition was accepted by the Official Receiver on **[insert]**.
7. The Applicant has not served on the Respondent trustee a schedule of its fixed costs of the Petition.

## Costs Order (Costs Schedule Unserved)

The Court:

1. Orders that the Petition against the Respondent(s) be dismissed.
2. Orders that the Respondent pay the Applicant Creditor's costs (including reserved costs) of the Petition fixed in the amount of **[\$insert]**.
3. Orders that the Applicant Creditor serve a copy of this Order and the Applicant's schedule of costs on the Respondent within two days.
4. Orders that:
  - (a) The Respondent notify the Applicant in writing within fourteen days of service being effected in accordance with Order 3 of any dispute concerning the amount of the costs (including disbursements) the subject of these Orders;
  - (b) The Applicant and the Respondent use their best endeavours to resolve any disagreement concerning the amount of the costs the subject of these Orders; and
  - (c) If the Applicant and the Respondent cannot resolve any disagreement, either the Applicant or the Respondent may approach the Registry within twenty eight days of service being effected in accordance with Order 3 to relist the matter for reconsideration by the Court.
5. Grants liberty to apply for the purposes of Order 4(c).

**OR**

5. Order [2] does not take effect for a period of 7 days after service on the **[insert]**, and if notice is given by email within that period that any party wishes to be heard further on costs, does not take effect until further order of the Court.

## Adjournment/Notification

The Court orders that:

1. [By consent/ on the application of the Applicant/ Respondent], the Petition be adjourned until **[insert]**.
2. The Applicant is to notify the Respondent and any other parties (including any supporting creditor) not appearing today of the details of time, date and place of the next Court date and any other orders made.
3. If the Applicant seeks to proceed an affidavit proving notification is to be provided on the next Court date.

## Petition Not Served

The Court:

1. Notes that the Petition has not been served.
2. Makes no order.

Note: The Applicant must eLodge an amended Creditor's Petition with the Registry to obtain a new hearing date.

**OR (where future date is requested)**

1. Re-lists the Petition at **[insert]**.

Note: The Applicant must eLodge an amended Creditor's Petition with the Registry to amend the hearing date required by Order [1].

## Extend Time

The Court orders that:

1. The time for compliance with Bankruptcy Notice Number **[insert]** issued on **[insert]** be extended up to and including **[insert]**.

## Ex Parte Extension of Time

The Court orders that:

1. Pursuant to subsection 41(6A) of the *Bankruptcy Act 1966* and rule 3.03 of the *Federal Circuit Court (Bankruptcy) Rules 2006*, on condition that Bankruptcy Notice Number BN **[insert]** issued **[insert]** was served on the Applicant on **[insert]**, the time for compliance by the Applicant with the requirements of the Bankruptcy Notice is extended up to and including **[insert]**.
2. There be liberty to any party to apply to vary or discharge Order 1, on 24 hours' notice.

## Substituted Service of CP

The Court orders that:

1. The Creditor's Petition be re-listed at \_\_\_\_\_.
2. The Applicant eLodge an amended Creditor's Petition with the Registry to amend the hearing date required by order 1.
3. The Creditor's Petition served on the Respondent in accordance with these orders must bear the extended hearing date referred to in order 1.
4. Personal service of the Creditor's Petition be dispensed with.
5. A sealed copy of the Creditor's Petition and this order, and a copy of each affidavit verifying the Creditor's Petition, and a copy of any affidavit of service of the bankruptcy notice, and a copy of any consent of a registered trustee, be served:
  - (a) By handing them to any person apparently over the age of 16 years at \_\_\_\_\_; and
  - (b) By handing them to any person apparently over the age of 16 years but, if this is not possible, by leaving them in the letterbox or affixing them to the front door in a sealed envelope addressed to the Respondent at \_\_\_\_\_; and
  - (c) By sending them by prepaid ordinary post addressed to the Respondent at \_\_\_\_\_; and
  - (d) By scanning them and sending by email to \_\_\_\_\_.
6. A text (sms) message be sent to the Respondent on mobile number \_\_\_\_\_ stating that the Applicant(s) has filed a Creditor's Petition with the Court, that the documents have been sent to or left at \_\_\_\_\_ and the Creditor's Petition will be heard in Court on \_\_\_\_\_.
7. The Creditor's Petition shall be deemed to be served on the Respondent \_\_ days after service in accordance with order 5 (a), (b), (c) and (d) and compliance with order 6 whichever is the later **[OR deemed to be served on [date] upon condition that the events referred to in paragraph 5 occur by [date]]**.
8. Costs be reserved.

## Substituted Service of BN

The Court orders that:

1. Service of Bankruptcy Notice No. BN \_\_\_\_\_ of 201\_\_ issued on \_\_\_\_\_ and addressed to \_\_\_\_\_ (the Respondent) together with a sealed copy of this order (and any extension of the Bankruptcy Notice) may be effected by the following means occurring on or before \_\_\_\_\_:
  - (a) By sending by pre-paid ordinary post addressed to the Respondent at \_\_\_\_\_; and
  - (b) By handing to any person apparently over the age of 16 years at \_\_\_\_\_; and
  - (c) By handing to any person apparently over the age of 16 years at \_\_\_\_\_ or, if this is not possible, by affixing to the front door or leaving in the mailbox of the premises at that address, in all cases in an envelope addressed to the Respondent; and
  - (d) By scanning and sending by email to the Respondent at the following email address: \_\_\_\_\_; and
  - (e) By sending a text (sms) message to the Respondent on mobile phone number \_\_\_\_\_ that the Bankruptcy Notice has been sent to/ or left at \_\_\_\_\_; and
  - (f) By scanning and sending by a private email to the Respondent on the Respondent's Facebook/Linked-In webpage.
2. Service in accordance with this order shall be deemed good and sufficient service of the Bankruptcy Notice on the Respondent.
3. The Bankruptcy Notice shall be deemed to be served on the Respondent on \_\_\_\_\_.
4. The Bankruptcy Notice be amended by deleting the following words in paragraph 1 on page 2 of the notice "after service on you of the Bankruptcy Notice" and substituting "after \_\_\_\_\_".
5. The Applicant lodge an appropriate application with the Official Receiver to make the amendments to the Bankruptcy Notice required by Order 4.
6. A copy of the amended Bankruptcy Notice issued by the Official Receiver pursuant to Order 5 and served pursuant to Order 1 is to be annexed to any affidavit proving that service.
7. Costs of this application be reserved for purposes of any creditor's petition based on this Bankruptcy Notice.

## GENERAL ORDERS

### Notice of Opposition

The Court orders that:

1. The Plaintiff (Applicant)/ Defendant (Respondent) file and serve any notice stating grounds of opposition and affidavit(s) in support by **[insert]**.
2. The Plaintiff (Applicant)/ Defendant (Respondent) file and serve an affidavit that clearly states in sufficient detail the nature and substance of each ground upon which he/ she/ it relies to oppose/ or to support the orders sought by **[date]**.  
**OR (where previous order made)**
  1. The date by which the Plaintiff (Applicant)/ Defendant (Respondent) must file and serve **[insert]** is extended to **[insert]**.

### E-Lodge Document Filed in Court

The Court orders that:

1. Leave be granted to the Plaintiff (Applicant)/ Defendant (Respondent) to file in Court the affidavit of **[insert]**.
2. The Plaintiff (Applicant)/ Defendant (Respondent) eLodge the affidavit referred to in order **[insert]** by **[insert]**.

## Filing of Evidence

The Court orders that:

1. The Plaintiff (Applicant)/ Defendant (Respondent) file and serve any evidence on which he/ she/ it intends to rely by **[insert]**.

**OR (where previous order made)**

1. The date by which the Plaintiff (Applicant)/ Defendant (Respondent) must file and serve **[insert]** is extended to **[insert]**.

## Affidavit in Support of Adjournment

The Court orders that:

1. Unless by consent, any further adjournment application is to be supported by an affidavit to be filed and served by **[insert]**.

**OR**

1. If a further adjournment is sought, the respondent is to file and serve by **[insert date]** an affidavit outlining the reasons for the adjournment, including steps taken to seek legal and/or financial advice and to enter into a payment arrangement with the applicant.

**OR**

2. If a further adjournment is sought, the respondent is to file and serve by **[insert date]** an affidavit outlining the reasons for the adjournment, the steps to be taken to resolve the matter and the timeframe for doing so.
2. In the event of non-compliance with Order **[x]**, the Applicant may proceed on the Petition for a sequestration order and the Court will determine the application on the evidence available.

*NOTE:* The party applying for an adjournment is expected to confer with the other party/parties in advance of the court hearing to determine whether the adjournment application is agreed/ or will be opposed.

## Subpoena – Access Order

The Court orders that:

1. Leave be granted to the parties to inspect and copy in the Registry, the documents produced in accordance with the Subpoenas addressed to **[insert]** (S1), **[insert]** (S2) and **[insert]** (S3).
2. Leave be also granted to the solicitors for the parties to uplift these documents, for the purposes of inspection and copying, on the following conditions:
  - (a) If original documents rather than copies have been produced, the solicitor provides to the Registry a letter of consent from the person to whom the subpoena is addressed.
  - (b) Documents not leave the custody of the solicitor, or counsel instructed by the solicitor.
  - (c) Documents be returned to the Registry in the same condition, order and packaging as when uplifted.

(d) Documents be returned promptly and, in any event, when an officer of the Registry so requests.

**OR**

1. Leave be granted to the [Applicant/ Respondent] and its legal representatives to have first access to (and to uplift) the documents produced in response to Subpoena addressed to **[insert]** for a period of **[x working days]** until 4.30pm on **[insert date]**.
2. The [Applicant/ Respondent] return the subpoena documents referred to in order 1 to the Registry and notify the other parties of any confidentiality / privilege claims it/ he/ she wishes to assert in respect of the subpoena documents by **[insert date]**.
3. Subject to order 2 above, leave be granted to the **[name party/ parties]** to access and uplift the documents produced in response to Subpoena addressed to **[insert]** from **[insert date referred to in 1 above]** or following the expiry of the **[x]** working day period referred to in order 1.
4. Any notice of objection in relation to the documents produced under subpoena by **[insert name]** or application to set aside the subpoenas addressed to **[insert name of subpoenaed party]** be filed by **[insert date]** and listed before **[docket judge/ Registrar]** at a date to be notified by the Registry **(or on [specify date])**.
5. Leave be granted to the **[name party/ parties]** to access and uplift the documents produced in response to Subpoena addressed to **[insert]** in respect of which no confidentiality / privilege claims have been made in accordance with order 2 above, from **[insert date referred to in 1 above]** or following the expiry of the **[x]** working day period referred to in order 1.
6. The applicant for this order to notify the parties not appearing today of these orders.
7. On completion of this matter, the Registrar may return to the addressee of the subpoena any document without giving the issuing party any further notice.
8. The balance of the outstanding Subpoenas be adjourned until **[insert]**.

## **Pro Bono Referral**

The Court orders that:

1. The Applicant/ Respondent be referred to a lawyer for legal assistance pursuant to rule 12.02 of the Federal Circuit Court Rules 2001.

**OR**

The Plaintiff/ Defendant be referred to a lawyer for legal assistance pursuant to rule 4.12 of the Federal Court Rules 2011.