

COMMISSION DES NORMES DU TRAVAIL

# Has your employer gone bankrupt?



LABOUR STANDARDS

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understanding

Québec 

When the business for which you work declares bankruptcy, you must take three steps simultaneously to try to recover the amounts you are owed.

## STEP CONCERNING THE

### Commission des normes du travail

The Commission des normes du travail has the authority, under certain conditions, to institute legal proceedings against the administrators of a business that has declared bankruptcy.

If you believe that you have been denied your rights, you can file a complaint with the Commission to collect the wages, vacation or holiday indemnities, family or parental leave and absences you are owed, with the exception of notices of termination of employment or collective dismissal.

### Information needed and documents required

In order for the Commission des normes du travail to be able to process your complaint quickly and to establish your claim with the trustee\* in bankruptcy, you must provide the Commission, wherever possible, with the following information and documents:

Information needed	Documents required
<ul style="list-style-type: none"><li>• Precise name of the employer</li><li>• Address of the undertaking</li><li>• Name of the administrator(s)</li><li>• Home address of the administrators if you know it</li><li>• Nature of the undertaking's activities</li><li>• Date of the bankruptcy</li><li>• Name of the trustee</li><li>• Steps taken with the trustee, if any</li></ul>	<ul style="list-style-type: none"><li>• Bankruptcy notice</li><li>• Pay sheets</li><li>• Booklet of the hours worked</li><li>• NSF cheques returned</li><li>• Copy of contract of employment, where applicable</li><li>• Copy of record of employment issued by the employer under the Employment Insurance Act</li><li>• Income tax slips (T4 or Relevé 1)</li><li>• Letters from the employer concerning the closure of the company</li></ul>

When the claim is founded, the Commission fills out on your behalf the *proof of claim* and the *details of claim* forms that must be filed with the trustee. These forms will be sent to you beforehand for signing and must be returned to the Commission within 15 days.

#### Proof of claim

The proof of claim is used to claim a sum of money as a creditor of a bankrupt's estate. It may be obtained from the trustee in bankruptcy or the Commission des normes du travail.

#### Details of the claim

The details of the claim document takes the form of a statement of account indicating the nature of the amounts claimed. It must be appended to the proof of claim by adding thereto the vouchers and other documents in support of the claim.

If you yourself decide to file these forms with the trustee, you must send to the Commission des normes du travail:

- a copy of the proof of claim;
- a copy of the statement of account;
- proof that you have filed the requested documents with the trustee by the stipulated deadline. The attestation may, for example, take the form of an acknowledgment of receipt from the trustee or the notice of receipt if you sent the documents by registered mail.

\* Trustee: Person designated to manage the assets of the bankrupt in the interest of the creditors. (Those employees who submit a proof of claim are among the creditors.)



## STEP CONCERNING THE trustee in bankruptcy

### Deadlines

In order for the Commission des normes du travail to be able to institute on your behalf legal proceedings against the administrators of the bankrupt company, the Commission must file a proof of claim with the trustee by no later than :

- six months after the date of the bankruptcy for an undertaking incorporated under a federal law or
- 12 months following the payability of the debt for an undertaking incorporated under a Québec law.

### Recourses

The Commission des normes du travail can exercise a recourse on your behalf against the administrators of a bankrupt company, but there are certain conditions:

- you must sign and return to the Commission the proof of claim by the stipulated deadline;
- the administrators must not themselves have declared bankruptcy;
- the legal form of the undertaking must allow for proceedings to be instituted;
- the Commission must deem that there are grounds for instituting proceedings.

If these conditions are met, the Commission will notify the administrators of the amounts claimed. The file will be forwarded to the Direction générale des affaires juridiques for examination and appropriate action if the administrators fail to follow up on the claim. However, it is possible that no legal proceedings can be instituted against the administrators. You will be informed accordingly.

Finally, if these conditions are not met or if you yourself decide to institute legal proceedings against the administrators, the Commission will close your file, and you will be informed accordingly.

### Miscellaneous claims

If you have other claims, for example sick leave or travel expenses, against the bankrupt company under other laws or your contract of employment, you must file a separate proof of claim with the trustee.

### Claiming an indemnity for termination of employment

You can also recover the amount you are owed as indemnity for termination of employment, if eligible. This could be the indemnity for the notice of termination of employment or notice of collective dismissal. You must indicate the amount in the separate proof of claim filed with the trustee in bankruptcy since the Commission des normes du travail cannot claim such amounts from the business' administrators.

The indemnity is equal to the usual wages to which you would have been entitled for a period equal to that of the stipulated length of the notice, or for the remaining time so that the notification period is respected. Your wages must be increased by the tips reported or attributed, but overtime is not taken into account.



## STEP CONCERNING Service Canada

### Notice of termination of employment

Length of uninterrupted service	Notice period
3 months to less than 1 year	1 week
1 year to less than 5 years	2 weeks
5 years to less than 10 years	4 weeks
10 years and more	8 weeks

### Notice of collective dismissal

Number of employees	Notice period
10 to fewer than 100	8 weeks
100 to fewer than 300	12 weeks
300 and more	16 weeks

If you are entitled to both indemnities, you may only claim the higher of the two.

### How to calculate the indemnity for the notice of termination of employment or collective dismissal

Regardless of the type of indemnity claimed, the amount is calculated as follows:

Average weekly wage*	X	Notice not received (no. of weeks)	=	Amount owed the employee
\$ _____	X	_____	=	\$ _____

The federal government created the Wage Earner Protection Program (WEPP) for this purpose. It protects, **up to approximately \$3,400\***, certain amounts owed to employees when the business for which they work declares bankruptcy or becomes subject to a receivership. This amount covers wages, vacation pay and notices of termination of employment or collective dismissal owed by the employer.

Employees have **56 days** from the date the business files for bankruptcy or is placed in receivership to file a claim with the trustee in bankruptcy.

To determine if you are entitled to an indemnity under this program and for information about the application procedure, consult Service Canada's Web site at [www.servicecanada.gc.ca/eng/sc/wepp/index.shtml](http://www.servicecanada.gc.ca/eng/sc/wepp/index.shtml) or dial the toll free number: 1 866 683-6516.

\* Without overtime

\* Amount valid as of May 10, 2011.



## Service des renseignements

**514 873-7061**

Montréal Region

**1 800 265-1414**

Elsewhere in Québec, toll-free

**[www.cnt.gouv.qc.ca](http://www.cnt.gouv.qc.ca)**

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*Original text in French.*

In this document, the masculine gender designates both women and men. The sole purpose of using the masculine gender is to make the text easier to read.

**Commission  
des normes  
du travail**

**Québec** 

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