



# Application for wage guarantee

# A

## Notification of wage claims etc. to the bankrupt estate NAV Arbeid og ytelser lønnsgaranti (Wage guarantee scheme)

**The form must be completed by the employee and be sent to the administrator of the estate**

Before you complete the form, please read the guidelines. You are responsible for reading and understanding the regulations that apply to the wage guarantee scheme. Fields that are marked with **NB** are explained further in the guidelines.

Name of company				
1. Personal information	1.1 Family name, first name	Daytime telephone number/mobile	1.2 Personal ID number (11 digits)	
	1.3 Address, postcode, city		1.4 Account number	
	1.5 Tax municipality	1.6 Mandatory deductions apart from tax (state type and amount)	1.7 Tax table/tax percentage	
	1.8 E-mail address			
2. Employment information	2.1 Position within company	2.2 Employed from date	2.3 Termination received (state)	
	2.4 Period of notice	2.5 Do you have a tariff agreement concerning a period of notice? Yes No		
	2.6 Type of wages NOK Per hour Per week Per month Piece work Commission or bonus			
	2.7 Agreed wage date	2.8 Wages received until (date)		
	2.9 a) Have your wage or working terms been changed in the period before bankruptcy proceedings began? Yes No		b) If Yes, please state the date of the most recent changes and details of these under item 11	
3. Holiday pay and holiday dates	3.1 a) Have you taken or will you take any holidays in the period for which you wish to have wages covered? Yes No		b) If Yes, please state dates of holidays	
	3.2 a) Do you have a higher percentage rate than that stipulated in the Holidays Act § 10? Yes No		b) If Yes, state the percentage	
	3.3 Number of holidays taken this year			
4. Ownership stakes	4.1 a) Have you had ownership stakes in the company during the application period <b>NB</b> ? Yes No		b) If Yes, state the extent of ownership	
	4.2 a) Have any of your close family <b>NB</b> had ownership stakes in the company during the application period <b>NB</b> ?			
	b) If Yes, please give details of the family relationship and states the extent of ownership under item 11			
5. Wage Guarantee Act § 7	5.1 a) Have you or your close family held a senior position in the company during the application period <b>NB</b> ? Yes No			
	b) If Yes, which position did you or your close family hold <b>NB</b> ? Please provide details of the family/relationship and position under item 11			
	5.2 a) Have you been a member of the Board of Directors during the application period <b>NB</b> ? Yes No		b) If Yes, were you the employees elected representative? Yes No	
	5.3 a) Have you or anyone in your close family had an ownership stake, a senior position or been a board member of the company? Yes No If Yes, please provide further details mentioned in a) under item 11.			
6. Transfer of claims	6.1 a) Is your claim fully or partially transferred, or in another manner handed over to another party, e.g. a bank? Yes No			
	b) If Yes, state the date this took place and the name of the party to which the claim was transferred.			

7. Employees that are not working or are on sick leave during the application period	7.1 Have you reported to NAV as a person seeking employment? (State the date in the field on the right (Please state the reason in item 11) and enclose a confirmation from NAV) Yes No		b) Date for reporting to NAV
	7.2 I have employment /expect to begin work from date	Company	
	7.3 I am or have been off sick during part of the application period. Yes No If Yes, state the entire period you were off sick		
	7.4 I am aware that, during the application period, I am obliged to inform the administrator of the estate if I earn income as stated under item 10, if I am on certified sick leave during my notice period. Yes		

	Type of claim	Period	Gross sum	For the estate administrator
	8. Wage claims, holiday pay, priority claims (see guidelines)	8.1 Fixed gross wages		
	8.2 Other remuneration (See guidelines)			
	8.3 Holiday pay			
	8.4 Other claims (e.g. recovery expenses)			
	Sum			
9. Mass claims	9.1 Expenses incurred in submitting bankruptcy petition			
	Type of income	Period	Gross sum	
	10. Other income during application period	10.1 Wages and other remuneration from a new employer		
	10.2 Income from self-employment			
	10.3 Unemployment benefit			
	10.4 Sick pay from NAV			
	10.5 Other payments from NAV (state type)			
	Sum			
11. Employee's comments - if necessary use a separate sheet				

I declare that the information has been stated to the best of my knowledge and conviction, and as fully as possible, and as far as I am aware contains no incorrect information. I am aware that I am obliged to keep the administrator of the estate informed of any changes to the information I have provided on this form. I am aware that I may break the law if I provide incorrect information. I am also aware that errors and omissions in information may mean that any payments received may have to be repaid. I accept that payments received beyond those included in the wage guarantee can be deducted from subsequent claims.

Place and date	Signature of applicant
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**Please retain these guidelines.**

## GUIDELINES

### General information about the wage guarantee scheme

The state wage guarantee scheme shall ensure that you receive wages, holiday pay etc. that you clearly are entitled to when the employer is not able to pay these due to bankruptcy. In a bankruptcy, claims that are submitted to the bankrupt estate are allocated various priorities. The priority states the order in which claims are to be covered if there are any funds to be distributed from the estate. In principle, the wage guarantee scheme covers claims that have the status of priority claims class 1, in addition, claims from the General Manager and board members are covered. As a principal rule, employees' claims for wages and holiday pay will be prioritised as class 1, and therefore also entitled to coverage within the guarantee scheme. However, there are several exceptions, chiefly for persons with 20% ownership stakes or more for some types of claims. There are also restrictions in regard to accrual periods and the due dates of claims. Payments from the guarantee scheme are also subject to restrictions on total amounts. This restriction means that the claims that are covered for individual employees do not exceed twice the National Insurance basic amount on the deadline date. All types of claims that are covered under the guarantee are subject to this restriction, with the exception of expenses associated with the bankruptcy petition.

Claims that do not have first priority and that are not covered under the wage guarantee scheme must be listed on a separate sheet and be enclosed with the application. If there are sufficient funds in the bankrupt estate, you may have claims that do not have priority covered, in line with other creditors.

### General information concerning case processing

The state wage guarantee scheme is administered by NAV Arbeid og ytelse lønnsgaranti in cooperation with the administrator of the bankrupt estate and the District Court. When you have completed form A, send it to the administrator of the estate. The administrator will, after checking your claims, submit these to NAV Arbeid og ytelse lønnsgaranti on your behalf. If the administrator of the estate does not recommend that all parts of your claim should be covered, you can in any case request that your application be sent to NAV Arbeid og ytelse lønnsgaranti.

NAV Arbeid og ytelse lønnsgaranti will assess the case based on the checks carried out by the administrator of the estate and will transfer approved sums to the administrator. The administrator of the estate will pay out net sums to employees after making deductions for tax and similar, and will send a report to respective taxation offices.

NAV Arbeid og ytelse lønnsgaranti does not send out wage/deduction slips at the end of the year. You must therefore retain payment letters. You can make enquiries at the District Court in order to find out who is the administrator of the estate. The administrator is obliged to provide further information concerning the wage guarantee scheme, including which claims have priority. The administrator is also obliged to provide assistance in completing application forms.

### Definitions and guidelines concerning specific items on the application form

#### "Deadline date"

The deadline date in connection with a bankruptcy is the date that the District Court received the petition for bankruptcy that led to bankruptcy proceedings being opened. In some cases, the deadline date may be a different date. The administrator of the estate and District Court can provide information concerning which date is the deadline date.

### 1.6 Deductions other than tax

Here you must list all mandatory and agreed deductions that will be made by the employer, for example trade union fees and maintenance payments (child support or spousal maintenance).

### 2.6 Type of wages

Here you must check the box for the correct type of wages. If the application concerns wholly or partial piecework wages or commission/bonus wages, you must provide further information under item 11, detailing how wages have been agreed and how they have been calculated. Include documentation if you have this.

### 2.8 Wages received

You must also state if you have never received wages from the business.

### 3.2 Do you have a higher percentage rate than that stipulated in the Holidays Act § 10?

State whether you have holiday pay claims that are calculated at a higher percentage rate than that stipulated in the Holidays Act § 10. If a higher rate has been agreed you must provide details of this.

### 3.3 Number of working days holiday taken in the current year

The term 'working day' chiefly means the days from Monday up to and including Saturday. One week's continuous holiday is calculated as 6 working days, two weeks as 12 working days etc.

### 4.1 and 4.2 Owner

If you have had ownership stakes in the business amounting to at least 20%, your claims for wages etc. do not have priority in the estate. Claims for wages etc. are not in such case covered by the wage guarantee. The claim may however be entitled to coverage if you can substantiate that you have not had significant influence on business operations.

### 5. Wage Guarantee Act § 7 - other reasons for rejection

If the nature of your relationship to the employer is such that coverage of a claim will be considered unreasonable, coverage can be refused. An example of this can be that due to your close relationship with the employer you have had a particularly beneficial employment agreement in comparison to other employees, or that you have had a close relationship to the employer and have formed an agreement to defer wage payments.

Relationships with employers considered according to the above are spouses, unmarried cohabiting partners, partners engaged to be married, relatives in a direct upward or downward line (i.e. grandparents, parents and children) and siblings. This also applies to the stated persons' spouses, i.e. family-in-law. The same applies to others that have a close personal relationship, for example girlfriends/boyfriends.

### 6. Transfer of claims

If, before bankruptcy proceedings are opened, you have transferred due claims for wages and holiday pay to a third party, or in another manner have used the claims as a form of surety before the opening of bankruptcy proceedings, the wage guarantee scheme will not apply. The same applies if a third party, before opening of bankruptcy proceedings in another manner has assumed the right to claims against the employer after redeeming or covering your claims. The right to wage guarantee will not however be lost if the claims are transferred to a public authority, for example a Social Security office. The right to wage guarantee is also not lost if the claims are transferred to another party and it is clear that this is not part of a hidden operating credit to an employer or other misuse of the wage guarantee scheme.

### 7.3 Employees on sick leave

In the event of sickness, the wage guarantee scheme will cover the employer-paid period. After this ends, NAV will pay sick pay. If you have an employment contract that gives you the right to sick pay from the employer also after the employer-paid period, you must document this. State the first day of absence and the length of sickness absence

### 8.1 Fixed gross wage

Here you must state the prioritised claim on regular fixed wages, without deductions for tax etc. You must state the accrual period, from date to date.

The wage guarantee scheme does not cover claims for wages that are due for payment earlier than 12 months before the deadline date (time limit). This deadline is absolute. After bankruptcy proceedings are opened the wage guarantee scheme will cover claims for up to one month after the date the bankruptcy proceedings are opened. This applies regardless of whether there is an agreement for an agreed or regulated extended period of notice. The right of priority/wage guarantee is also limited to wages for 6 months (accrual restriction).

### 8.2 Other remuneration

Examples of other remunerations entitled to coverage can be OTP, piecework settlement, commission, overtime remuneration, public holiday remuneration, deducted but not transferred trade union fees, also travel and waiting time remuneration in the construction industry. Time and accrual restrictions also apply to these claims under 8.1. You must state the accrual period from date to date.

### 8.3 Holiday pay

Here you must state the total claim for accrued but unpaid holiday pay. You must state the accrual period from date to date. Holiday pay is normally calculated on all work remuneration during the accrual year, with the exception of holiday pay. The wage guarantee scheme covers holiday pay accrued in the deadline date year and the year before. For the period after the deadline date, holiday pay can be covered up to one month after the date of opening of bankruptcy proceedings.

### 8.4 Other claims

Here you can list other necessary recovery costs that you have incurred before opening of bankruptcy proceedings as a result of attempts to recover the claim from the employer. You can also list ongoing interest on outstanding wage claims etc. up to the deadline date. The calculation period for interest claims must be stated precisely. All claims under this point must be specified under item 11.

Further guidelines are available from NAV Arbeid og ytelse lønnsgaranti, tel. +47 22 82 20 00. See also NAV website: [www.nav.no](http://www.nav.no). Here you will find information for employees (those seeking employment), employers and estate administrators/courts. See also [www.nav.no/lonnsqaranti](http://www.nav.no/lonnsqaranti) with relevant links.

### 9. Expenses incurred in connection with bankruptcy petition

If you have claims that are entitled to be covered in the bankrupt estate, you will be able to recover reasonable expenses incurred in connection with the bankruptcy petition. Expenses must be documented, e.g. with invoice from lawyers, fees in connection with pronouncement etc.

### 10. Income to be deducted

Here you must state other gross income that you have received instead of income from the bankrupt debtor (i.e. employer) during the application period. In this context, the date of payment of income is not determinative - it is rather whether the income has been earned during the application period. You must state the accrual period from date to date. It is not necessary to list secondary income that you have also had before opening of bankruptcy proceedings. If you have applied for and received approval for advance payments of unemployment benefit after bankruptcy, the administrator of the estate will deduct this sum from the wage guarantee payments applicable to the same period, and pay the remaining amount to you.

### 10.5 Other support from NAV

This can be work assessment benefits, retirement pension or disability benefits, supplementary benefits or other ongoing cash benefits that you have received instead of income from the bankrupt party (i.e. employer) during the application period.

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You or the person submitting the application must date and sign the application form.

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The most important regulations concerning your rights according to the wage guarantee scheme are contained within the Wage Guarantee Act (14 December 1973 no. 51), the Wage Guarantee Regulation (28 October 1998 no. 999), the Creditors Recovery Act (8 June 1984 no 59) particularly chapters 1 and 9, the Bankruptcy Act (8 June 1984 no 58) particularly chapter VIII, the Holidays Act (29 April 1988 no 21), particularly chapter III and the Working Environment Act (17 June 2005 no. 62). It is not normally necessary however to read and absorb all of these.

There are absolute deadlines for sending claims concerning wage guarantee, see the Wage Guarantee Regulation § 3-4. Basically, the application must be sent to the administrator of the estate within the deadline for submitting claims set by the District Court. However, the application can be sent to the administrator before the administration of the estate has been completed. If the administration of the estate has been completed, the application must be received by the administrator or NAV Arbeid og ytelse lønnsgaranti within 6 months of the opening of bankruptcy proceedings. If the deadlines are exceeded the right to coverage under the wage guarantee is lost.