

FAQ EMPLOYEES BANKRUPTCY

1. *My employer has been declared bankrupt. What does this mean for me as an employee?*

Employment contracts remain in force after the employer's bankruptcy. In the majority of bankruptcies, however, there is no more work for employees immediately or in the long(er) term. The bankruptcy trustee assesses whether the employment contracts should be terminated. For this, the bankruptcy trustee needs the authorisation of the supervisory judge to do so.

2. *Can my employment contract be terminated by the bankruptcy trustee?*

Your employment contract can be terminated by the trustee. In case of bankruptcy, your employer/administrator does not need to apply for a dismissal permit. However, the trustee does need an authorisation from the supervisory judge. The supervisory judge supervises how the bankruptcy is handled by the trustee.

3. *What is the notice period of my employment contract by the trustee?*

In most cases, you will receive a letter of resignation from the bankruptcy trustee by post. After dismissal by the trustee, the notice period as stipulated in the employment contract starts to run. If no notice period is included in the employment contract, the statutory terms apply. In most cases, the notice period varies between four and six weeks.

4. *Can I do anything against the trustee's termination of the employment contract?*

You have the option of appealing to the court against the authorisation of the supervisory judge. The period within which this appeal must be filed by you is five days from the day you were able to take note of the authorisation. For handling an appeal, you will have to pay court fees.

5. *Will I be paid back salary from before the date of bankruptcy?*

The Dutch bankruptcy act (de Faillissementswet) and unemployment act (de Werkloosheidswet) provide special arrangements for those who have been dismissed as a result of bankruptcy. Broadly speaking, among other things, employees have a claim against the UWV for payment of back wages up to a maximum of 13 weeks back from the notice of dismissal.

6. *Will I still be paid salary after bankruptcy date?*

The Dutch bankruptcy act and unemployment act provide special arrangements for those who have been dismissed as a result of bankruptcy. Broadly speaking, among other things, employees have a claim against the UWV for full salary continuation during the notice period. Of course, this does not apply if you are employed elsewhere during that period.

7. *Will my expenses be covered?*

If you have a claim to expenses, you can report it to the UWV. You must be able to substantiate this claim, for example through your employment contract.

8. *Will my overtime be paid?*

If you are entitled to overtime compensation, you can report it to the UWV. You must be able to substantiate this claim, for example through your employment contract.

9. *How long will it take for me to get paid?*

This depends on a number of factors. These include how busy the UWV is and the size of the company you were working for. You should fill in the forms provided by the UWV as complete as possible and provide all

requested documents. The UWV can only accept fully completed forms with all attachments. The UWV often works with payment of an advance. After full calculation, the remainder will be transferred to you.

10. I am a former employee of the bankrupt company. Will I be paid my outstanding claims from the employment contract?

You should report to the UWV. The UWV will assess whether you may be eligible for benefit under the Dutch bankruptcy act. If not, you can apply to the bankruptcy trustee. He will assess whether your claim may be eligible for compensation. Your claim will then be placed on a list of creditors. If applicable, you will be informed at the end of the bankruptcy whether there is sufficient money to proceed to payment.

11. Should I continue working for the trustee?

Yes, if the trustee requests you to do so. You are obliged to comply with that request. It depends on the type of bankruptcy whether the trustee requests the employees to continue working. It may be that this request only applies to part of the employees, or for example only to one employee.

12. Should I register as a job seeker?

Yes, this is a condition of eligibility for bankruptcy benefits.

13. Am I allowed to apply for a job during the notice period?

Yes, you are entitled to apply for a job during the notice period. In doing so, you are entitled to keep your salary.

14. Does my non-compete clause expire after dismissal by the trustee?

In principle, you should bear in mind that a non-compete clause is also in force in bankruptcy. If you want to join a competitor, you should coordinate this with the trustee.

15. Will I receive my annual statement?

As a result of bankruptcy, annual statements are often no longer provided. This is often also mentioned in the dismissal letter you receive from the trustee. When completing your tax return, you can rely on the cumulative amounts on your last pay slip.

For more information:

- <https://www.uwv.nl/particulieren/betalingsonmacht/werkgever-betaalt-niet-meer/index.aspx>
- <https://www.fnv.nl/werk-inkomen/fusie-reorganisatie/faillissement/loon-bij-faillissement>
- <https://wetten.overheid.nl/BWBR0004045/2024-01-01/>