

## FAQ Information employees Dunkin' Netherlands

*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. However, in the majority of bankruptcies, there is no more work for employees immediately or in the long(er) term. The liquidator assesses whether the employment contracts should be terminated. The trustee needs the authorisation of the supervisory judge to do so.

*What happens to my job?*

When a company goes bankrupt, a receiver takes over the management. The liquidator decides whether the company will continue to operate temporarily or stop its activities. Until you are released from work, you are obliged to continue working according to your schedule.

*Can my employment contract be terminated by the liquidator?*

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

*What is the trustee's notice period for my employment contract?*

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

*Can I do anything against the administrator's termination of the employment contract?*

You have the option of appealing to the court against the receiver's authorisation. 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. You will have to pay court fees to hear any appeal.

*How does the UWV wage guarantee scheme work?*

In principle, if the company can no longer pay the wages, the UWV (Uitvoeringsinstituut Werknemersverzekeringen) takes over the payment. In principle, the UWV takes over payment of:

- Wages for thirteen weeks prior to the end of the employment contract;
- Wages over the notice period with a maximum of six weeks;

- Holiday pay and allowances and amounts owed by the employer to third parties by virtue of the employment contract over a maximum of one year prior to the end of the notice period.

Any thirteenth month, bonus, expense allowance, customary overtime and the like are also generally paid. It does not include severance payments of any kind (contractual or awarded by a court).

#### *Will I be paid back salary from before date of bankruptcy?*

The Bankruptcy Act and the 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 payment of back salary up to a maximum of 13 weeks back from the notice of dismissal.

#### *Will I still be paid salary after the bankruptcy date?*

The Bankruptcy Act and the Unemployment Act provide special arrangements for those who have been dismissed as a result of bankruptcy. Broadly speaking, employees have, among other things, 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.

#### *Will my overtime be paid?*

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

#### *What happens to my fringe benefits, such as lease car or telephone?*

These matters will be dealt with by the liquidator. You will often have to hand in company property, such as a lease car, laptop or phone. The liquidator or HR will inform you about this and make arrangements with you for the return of company assets.

#### *How long will it take to get paid?*

This depends on a number of factors. Among other things, it depends on how busy the UWV is and the size of the company you were working for. You should complete the forms provided by the UWV as fully as possible and provide all requested documents. The UWV can only process fully completed forms with all attachments. Often, the UWV works with payment of an advance. After full calculation, the remainder will be transferred to you.

#### *Can I resign now?*

As an employee, you can always resign, but during bankruptcy, this may not be the best option. If you resign yourself, you may lose your right to UWV benefit for the notice period. If you have found a new job and want to terminate your contract yourself, you can. You should consult with the trustee about whether you can quit earlier.

*What happens to my pension?*

As long as your salary continues to be paid, you also build up a pension, pension is paid by the UWV on back wages.

*What if I have a temporary contract?*

Even with a temporary contract, you can claim the wage guarantee scheme if your employer goes bankrupt. If your contract expires during the moratorium or bankruptcy, your contract will end automatically on the agreed date.

*What if my employment is very short (1-3 months)?*

Even if your employment is short, you are entitled to payment of your wages and holiday pay. The UWV takes over the payment obligations for the last 13 weeks of your employment and any holiday pay.

*What happens if my branch is part of a relaunch?*

In a relaunch, some parts of the business are taken over by a new owner. If your branch is part of the restart, you may be offered a new employment contract by the restarting party. The new employer will decide which employees to take over and under what conditions. The liquidator will inform you about this.

*What happens if I do not get a new contract in the relaunch?*

If you do not receive an offer for a new employment contract as part of the relaunch, your contract will end after the notice period observed by the liquidator. You can then claim the wage guarantee scheme of the UWV and, after its expiry, possibly apply for unemployment benefit.

*How is it determined who can continue working in the restart?*

The liquidator and the restarting party decide together which branches and employees will be taken over. This depends on the new owner's plans and financial and operational needs. As soon as more is known about this, you will be notified whether you are eligible for a new employment contract.

*What happens to my sick leave or disability?*

If you are ill during the bankruptcy, the UWV will take over your sickness benefit under certain conditions. As soon as your employment contract is terminated, you may be eligible for sickness benefit through the UWV. The UWV can give you more information about this.

*I am a former employee of a bankrupt. 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 benefits under the Bankruptcy Act. If this is not the case, you can turn to the receiver. The receiver will assess whether your claim may be eligible for compensation. In that case, your claim will be placed on a list of creditors. If applicable, you will be notified at the end of the bankruptcy whether there is sufficient money to proceed with distribution.

*Do I have to 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 employees to continue working. It may be that this request only applies to some of the employees, or, for example, only to one employee.

*Do I have to register as a jobseeker?*

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

*Can I apply for a job during the notice period?*

Yes, you are entitled to apply for work during the notice period. In doing so, you are entitled to retain your salary.

*Does my non-compete clause expire after dismissal by the receiver?*

In principle, you should bear in mind that a non-competition clause is also in force in bankruptcy. If you want to work for a competitor, you should coordinate this with the liquidator.

*Will I get 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.

*See further:*

If you have any questions other than the above, please email them to [dunkindonuts@actlegal-netherlands.com](mailto:dunkindonuts@actlegal-netherlands.com)

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/>