

APPLICATION GUIDE FOR THE WAGE EARNER PROTECTION PROGRAM

The Wage Earner Protection Program (WEPP) provides payment to eligible individuals for wages owed to them by employers who are bankrupt or subject to a receivership.

To apply for a WEPP payment, you must complete this application form, which is also available online at www.servicecanada.gc.ca/eng/sc/wepp/index.shtml.

If you are applying for WEPP on behalf of a medically incapacitated or deceased applicant, you are required to complete a third party authorization as well as this application. To obtain more information on third party applications and the required forms, please visit the Service Canada website: (servicecanada.gc.ca/eng/sc/wepp/apply/proof.shtml) or call our dedicated WEPP information service.

Toll-Free: 1 866 683-6516
TTY: 1 800 926-9105

CAN I APPLY?

If your former employer owes you wages and has filed for bankruptcy or is subject to a receivership, under the Bankruptcy and Insolvency Act, you may be eligible for a WEPP payment.

Your former employer's trustee/receiver will submit information regarding your unpaid wages to Service Canada and will provide you a copy of this information to assist you in completing this application. The information provided by the trustee/receiver will be used to help determine your eligibility and amount of the WEPP payment. If you disagree with the information the trustee/receiver provides regarding wages owed, please contact the trustee/receiver before applying to the WEPP.

AM I ELIGIBLE?

To be eligible for a payment under the Wage Earner Protection Program:

- Your employment must have ended;
- your former employer must have filed for bankruptcy or be subject to a receivership;
- you are owed wages, vacation pay, termination or severance pay from the former employer; and
- these amounts were earned during the six months immediately before the date of the bankruptcy/receivership, or in the case of termination and severance pay, your employment was terminated in the six month period ending on the date of bankruptcy or receivership.

WHO IS NOT ELIGIBLE?

An individual is not eligible to receive a payment for any wages earned during a period in which the individual:

- was an officer or a director of the former employer;
- had a controlling interest in the business of the former employer;
- occupied a managerial position with the former employer; or
- was not dealing at arm's length with any of these persons.

Note: If your employer has not declared bankruptcy or subject to a receivership, but still owes you wages, you are not eligible to apply for WEPP.

WHAT IS MY ENTITLEMENT?

- Eligible individuals may receive a WEPP payment to compensate them for unpaid wages and vacation pay that were earned during the six months immediately before the date of the bankruptcy/receivership.
- Eligible individuals may also receive a WEPP payment to compensate them for unpaid termination and severance pay when their employment is terminated in the six months period immediately before the date of the bankruptcy/receivership.
- All WEPP payments are subject to a reduction (offset) in the amount of 6.82% prescribed by WEPP Regulations.

WHEN AND HOW DO I APPLY?

Applications must be submitted to Service Canada within 56 days of the later of the date of bankruptcy/receivership, the date that your employment ended due to termination, resignation, retirement or expiry of term or the date on which the receiver terminated your employment. If there is good cause for missing this deadline, a written explanation for the delay must be provided in box 21.

You must submit a proof of claim to the trustee/receiver in order to receive a WEPP payment. A proof of claim is a written statement filed during bankruptcy or receivership proceedings in which a creditor cites the reason a debtor owes the creditor money. If you have not already filed a proof of claim, the trustee/receiver appointed in your former employer's bankruptcy/receivership will assist you in filing a proof of claim.

WHAT ARE MY OBLIGATIONS?

A WEPP applicant who is or has been in receipt of Employment Insurance (EI) benefits is required to report any wages, disbursements of a travelling salesperson, vacation pay, termination pay and severance pay that they receive from WEPP as these monies are considered earnings under Employment Insurance Regulation 35.

Should you have any questions or concerns regarding your Employment Insurance claim, please contact Service Canada Employment Insurance at 1 800 206 7218 or you may visit your local Service Canada Centre.

GLOSSARY OF TERMS

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Wages: Includes salaries, commissions, compensation for services rendered, vacation pay, termination and severance pay, gratuities accounted for by the employer, disbursement of a travelling salesperson properly incurred in and about the business of a bankrupt or the business of a person subject to a receivership, production bonuses and shift premiums.

Bankruptcy: A proceeding under the Bankruptcy and Insolvency Act in which an insolvent debtor's assets are liquidated and creditors are paid, and the debtor is relieved of further liability.

Receivership: An employer is subject to a receivership when any property of the employer is under the possession or control of a receiver under the Bankruptcy and Insolvency Act or another legislation.

Termination of Employment: In order to establish eligibility to the WEPP, an individual's employment has ended under any of the following conditions: resignation or retirement; termination of employment or expiry of a term employment contract.

Date of Bankruptcy: The date on which the bankruptcy was officially registered with the Office of the Superintendent of Bankruptcy (Industry Canada).

Officer: An individual appointed by the director(s) of a corporation to manage the day-to-day business of a company, such as chairman, vice-chairman, president, vice-president, secretary, treasurer, comptroller, general manager, and managing director. The position of officer is distinct from that of director, although one individual may occupy both positions.

Director: An individual elected by the shareholder(s) to supervise the management of a corporation.

Controlling Interest: An individual has controlling interest in a business when the individual owns more than 40% of the voting shares in the company; or the individual owns a block of voting shares that is large enough that no other shareholder or coalition of shareholders can block a motion; or the individual owns enough shares in a company to control the company's policy.

Arm's length: In order to be eligible for the WEPP, an applicant must demonstrate that he or she was dealing at arm's length with the former employer. Not dealing at arm's length means that as an employee, one would be able to exercise control or influence or to have a moral or psychological leverage sufficient to affect the freedom of decision of the former employer while it was in operation.

Vacation Pay: An employer may owe vacation pay earned within the period covered by the WEPP based on applicable legislation, collective agreement or other relevant basis. *The vacation pay entitlement under the WEPP is only with respect to vacation pay earned within the six month period prior to the bankruptcy or receivership.*

Termination Pay: When an employer terminates the employment of an employee, the employer must provide the employee with either a written notice of termination, termination pay or a combination pursuant to labour standards laws, employment contracts or collective agreements. Termination pay is generally a lump sum payment equal to two weeks of *regular wages* that the employee would otherwise have been entitled to during the written notice period. Some Canadian jurisdictions provide for group termination pay where more than one individual is terminated from the same employer within a prescribed period.

Severance Pay: This is compensation paid to an employee who qualifies, pursuant to labour standards laws, employment contracts or collective agreements, where the employee has his or her employment "severed." Severance pay compensates an employee for loss of seniority and recognizes an employee's past service. The amount of Severance pay is generally determined by the length of time the employee has been employed by an employer. It is generally a lump sum payment equal to a week of regular wages per completed year of employment with an employer, up to a maximum determined amount.

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Proof of Claim: A written statement filed in bankruptcy or receivership proceedings in which a creditor cites the reason a debtor owes the creditor money.

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Common law partner: person who is cohabitating with an individual in a conjugal relationship for a period of at least one year (s.2 (1) of the *Bankruptcy and Insolvency Act*).

Subrogation: under s. 36 of the *WEPP Act*, once a payment is made under the WEPP to an eligible individual in respect of unpaid wages, the Government of Canada is, to the extent of the payment amount, subrogated to any rights the individual may have in respect of those unpaid wages against the former employer or, in the case of a corporate employer, its directors, and may therefore exercise the individual's rights against the former employer and its directors.



APPLICATION FOR THE WAGE EARNER PROTECTION PROGRAM

MAIL THE COMPLETED FORM TO THE FOLLOWING ADDRESS:

WEPP Processing Centre
P.O. Box 5900
Cornwall, Ontario K6H 6J6

Note: You can submit your application online instead of completing and mailing this paper application. Go to www.servicecanada.gc.ca/eng/sc/wepp/index.shtml.

Official Use (TO BE COMPLETED BY SERVICE CANADA OFFICIAL)		Department	
PART 1 – APPLICANT INFORMATION (TO BE COMPLETED BY APPLICANT OR AUTHORIZED REPRESENTATIVE)			
Is this application being completed by a representative on behalf of a medically incapacitated or deceased applicant? <input type="checkbox"/> Yes : Please complete the "Appointment of Representative form EMP5453", and contact 1-866-683-6516 to ensure the appropriate supporting forms and information are submitted. If yes, please ensure the appropriate supporting forms and information, as described in the guide, are submitted. <input type="checkbox"/> No : I am the person named in the application.			
(1) Social Insurance Number		(2) First Name	
			(3) Middle Name
(4) Last Name			(5) Date of Birth
(6) Street Address	(7) City	(8) Province/territory	(9) Postal Code
(10) Mailing Address (if different)	(11) City	(12) Province/territory	(13) Postal Code
(14) Telephone Number		(15) Alternate Telephone Number (if applicable)	
(16) Official Language you wish to use for Communication <input type="checkbox"/> English <input type="checkbox"/> French			
(17) Have you filed a Proof of Claim* with the trustee or receiver appointed in your employer's bankruptcy or receivership? <input type="checkbox"/> Yes <input type="checkbox"/> No <small>* The proof of claim is necessary to process your WEPP application, but is also required should you wish to make a claim against the bankrupt or insolvent employer for wages, vacation pay, severance, termination pay and other employee entitlements that are above and beyond what can be paid under the WEPP.</small>			
(18) Corporate Name of Trustee/Receiver administering your employer's bankruptcy/receivership.		(19) Trustee/Receiver Telephone Number	
(20) If you are not applying for a WEPP payment within the 56 day period please provide an explanation for the delay.			
PART 2 - EMPLOYMENT INFORMATION (TO BE COMPLETED BY APPLICANT OR AUTHORIZED REPRESENTATIVE)			
(21) Business name of the bankrupt or insolvent employer		(22) Former street address of this employer	
(23) City	(24) Province/territory	(25) Postal Code	
(26) Bankruptcy/receivership number (Estate ID)		(27) Date employment ended with the employer Year Month Day	
(28) Date of your employer's bankruptcy or receivership (if known) Year Month Day (Receivership) Year Month Day (Bankruptcy)		(29) During the period for which wages are owed, did you have controlling interest in the business? <input type="checkbox"/> Yes <input type="checkbox"/> No	

(30) During the period for which wages are owed, were you an officer or director of the business?

Yes

No

(31) During the period for which wages are owed, were you a manager whose responsibilities included making binding financial decisions impacting the business of the former employer; and/or making binding decisions with respect to the payment or the non payment of wages by the former employer?

Yes

No

(32) During the period for which wages are owed, were you related to a person with controlling interest in the business, officer, director or manager of the employer, by blood, marriage (including common-law) or adoption?

Yes

No

Applicants who are not at arm's length from those named above generally are not eligible for the WEPP, however, if you wish to prove that you should be eligible in spite of this relationship, please complete WEPP Supplementary Form – Additional Information Regarding Your Relationship To Your Employer EMP 5433 and send it to WEPP Processing Centre, P.O. Box 5900, Cornwall, Ontario, K6H 6J6

PART 3 - SUBROGATION

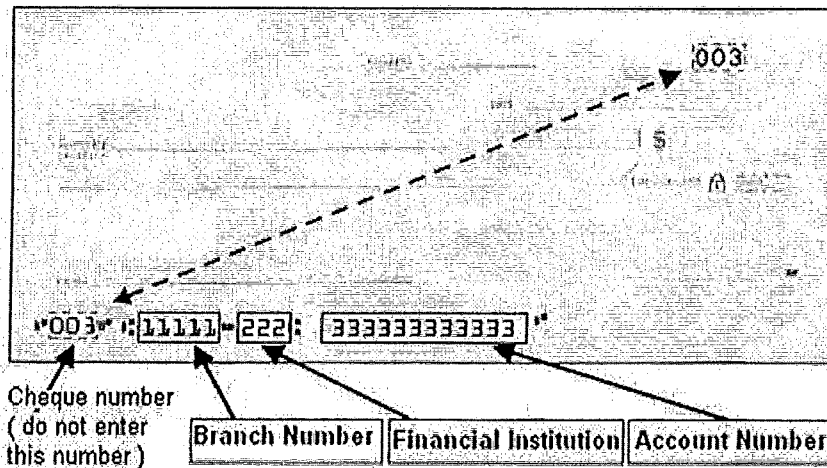
SUBROGATION

I understand that upon my receiving a payment under the WEPP, Her Majesty the Queen in right of Canada is subrogated, pursuant to s. 36 of the WEPP Act to any rights that I may have against my former employer or a director of that employer for the unpaid wages that are covered by the WEPP payment that I receive. I understand that my right to recover debts against my former employer, or a director of that employer, is limited to any amount of unpaid wages that I may be owed by my former employer, or a director of that employer, above and beyond the amount of payment I receive under the WEPP. In the event that I receive any amount from my former employer, director of that employer, the Trustee, or any third party for unpaid wages after receiving a payment under the WEPP, I hereby agree to remit to Her Majesty the Queen in right of Canada that amount to the extent of the amount I will have received under the WEPP.

PART 4 - DIRECT DEPOSIT (TO BE COMPLETED BY APPLICANT)

If you are found eligible, your WEPP payment can be deposited into your account at your Canadian financial institution. In order to have your WEPP payment directly deposited in your bank account you will need to provide us with the name of your financial institution as well as the branch number, the financial institution number, and your account number.

You can find these numbers in your passbook, on your bank statement, encoded deposit slip or cheque, or by contacting your financial institution in Canada.



Note: If you have authorized direct deposit and your bank account information changes or if you move, it is important that you let us know as soon as possible by calling or visiting a Service Canada Centre.

If you do not provide the information requested below, a cheque will be mailed to the address you indicated on this Application form.

Your WEPP payment will be deposited into your account at your financial institution if you are found eligible. Please provide the following information:

Name of Financial Institution

Branch Number

Institution Number

Account Number

Telephone number of your Financial Institution

PART 5 - DECLARATION (TO BE COMPLETED BY APPLICANT OR AUTHORIZED REPRESENTATIVE)

I declare that the information provided on this application is complete and true to the best of my knowledge. I understand that this information will be used to determine my eligibility for the WEPP payments. I am aware that this information may be subject to verification and that making a representation that I know to be false or misleading, or making a declaration that I know to be false or misleading because of the non-disclosure of facts is an offence under the *WEPP Act*.

The personal information you provide in this application form, including your Social Insurance Number is collected under the authority of the *WEPP Act* and protected under the *Privacy Act*, *WEPP Act*, and the *Department of Employment and Social Development Act* and in accordance with Treasury Board's Policy on Privacy and Data Protection regarding the use of the SIN. Participation is voluntary; however, refusal to provide the personal information could result in not being considered for payment under the *WEPP*.

The personal information you provide will be used by the Department of Employment and Social Development (Service Canada) to administer the *WEPP*. As part of the administration of the *WEPP*, the personal information you provide may be used for policy analysis, research, evaluation or audit purposes, for which various sources of information under the custody and control of ESDC may be linked. The personal information you provide may be linked to information provided to the Department of Employment and Social Development (Service Canada) by the bankruptcy trustee/receiver to determine your eligibility for a *WEPP* payment.

In order to administer the *WEPP* and as permitted by law, the personal information collected on this form, as well as the amount of the *WEPP* payment you receive, may be disclosed to the bankruptcy trustee/receiver, other federal government institutions, and the province/territory where you were employed.

The use, retention, and disclosure of personal information collected on this form are described in the Personal Information Bank number ESDC PPU 035. Under the *Privacy Act*, you have various rights regarding the personal information you provide to Service Canada, including the right to the protection of and access to your personal information. Instructions to access your personal information are outlined in the publication *Info Source*. You can get a copy of *Info Source* at any Service Canada Centre or at: infosource.gc.ca.

Signature _____

Date _____