



## **HOW TO CLAIM MONEY**

A brochure about how to claim money when a person or company owes you money

## ***PREAMBLE***

The brochure aims to be a self-help tool. It is not always necessary to engage a lawyer in cases where you want to collect a debt. To collect the debt can be easier than you think, and you can achieve a lot on your own. This brochure will explore the different methods of debt collection, as well as give some templates of legal documents to assist the reader.

You will find examples of process letters in this brochure. We want to point out that these need to be written in Norwegian if you are going to send, see domstolloven section 136.

Jusshjelpa i Nord-Norge would like to give a special thanks to Henriette Nazarian for ensuring the high quality of the brochure.

Jusshjelpa does not take responsibility for any changes and legal developments within the field of debt collection. This brochure is only meant to provide guidance.

We wish you good luck!

The brochure was last updated in June 2019.

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## 1. INTRODUCTION

The advice found in this brochure is general in nature. You should study the proposed methods carefully before you start collecting money on your own. The brochure aims to be easy to understand, and this means that it is not a fully exhaustive work on all nuances of money collection and relevant laws.

In chapter 2 you will find a list of terminology of some of the words used in this brochure. Chapter 3 gives you an explanation of what a money claim is, as well as templets for promissory notes. We recommend that you read chapter 4 carefully to avoid any mistakes. In chapter 5 you will get an overview of how you can collect the debt using the available legal means, and a step-by-step overview of this process. Chapter 6 is important for employees who work in a company that has become insolvent (lacks money to pay the employee's salary). This chapter is made for employees who wish to collect their owed salary by having the court declare their company bankrupt. This is only recommended when the reason why the salary is not paid, is because the company lacks money. If the reason the salary is not paid is that the company does not want to pay the salary or thinks you are not entitled to the salary, the claim is contested. We then recommend that the procedures in chapter 5 on contested claims are used to collect the debt. Chapter 6 are only for those who has an outstanding salary when the company goes bankrupt.

## 2. TERMINOLOGY

**A basis of enforcement** – When you have a basis of enforcement, you can send your claim to the Execution Authority. The Execution Authority is a state agency that will provide security for the claim in the debtor's assets and may eventually physically collect the money for you. A basis of enforcement can be achieved through various means; a ruling by a court, an enforceable promissory note etc.

**A promissory note** – A promissory note is used to provide documentation of the debt. It is usually a piece of paper, stating how much is owed, who is entitled to the money and who the claim is against.

**An enforceable promissory note** – A promissory note becomes enforceable when it is agreed upon and written on that it states the money can be collected without a court process. Making a promissory note enforceable adds a certain degree of security for the creditor and could save the creditor time should the debtor refuse to pay his debt. An enforceable promissory note can be a basis of enforcement.

**Bankruptcy** – When one become unable to pay debts owed. They have a duty to guide you if you contact them regarding your case. If a company goes bankrupt, the state will provide a estate manager. This person will guide you if you contact them regarding your case.

**Creditor** – The person who owed the money, and therefore has a claim.

**Date of filing** - The date of filing is usually the day the District Court received the petition for bankruptcy that resulted in commencement of bankruptcy proceedings.

**Debtor** – The person owing the money.

**Due date** – Regulates when the debt must be paid.

**NAV Lønnsgaranti** – A stat managed fund that guarantees coverage for unpaid wages in case of bankruptcy, if some terms are met.

**Security** – With a security a property or asset serves as a guarantee that the underlying claim will be fulfilled. If the debtor fails to meet the claim that is secured by the security, the security owner can usually sell the property item with the assistance of the execution authorities.

**Section** – Paragraph or §.

**Statute of limitations** – Are laws passed by legislative bodies systems to set the maximum time after an event within which legal proceedings may be initiated. It's a general limitation of three years, see foreldelsesloven section 2. And the act opens for an additional period up to ten years by ignorance and other obstacles, see section 10 in foreldelsesloven.

**The Brønnøysund Register Center** – Is a Norwegian government agency that is responsible for the management of numerous public registers for Norway, and governmental systems for digital exchange of information. The agency announces on its website when a company is declared bankrupt.

**The Conciliation Board** – The first instance of the court in cases of debt collection. The Conciliation Board will attempt to mediate between the parties and can in some cases make a binding ruling if no agreement is reached and its requested.

**The Execution Authority** – The Execution Authority is responsible for securing and enforcing money claims. This type of work is often performed by your nearest police office.

## 3. WHAT IS A MONEY CLAIM?

### 3.1. About money claims

A money claim is the right a creditor has to receive payment for the money owed by the debtor. The basis of the claim could be a loan you have given, salary you have not received, holiday pay, compensation for something you have sold someone or a service you have done for someone, that your tenant has not paid rent etc.

It is not a requirement that the claim is written down or has a basis in a written agreement. However, creating a written agreement can be very advantageous in order to provide proof of the validity of the claim. You should, therefore, consider creating a promissory note to serve as documentation for the claim. If you do not create a promissory note, you should at the very least write down the agreement along with the date and signatures of both the creditor and the debtor.

### 3.2. Promissory notes

A promissory note must contain a written and independent declaration that someone owes another a specific amount of money. That the promissory note must be independent means that it must be unconditional. It can therefore not contain reservations.

For example, the statement "I, Tom Thomson, owes John Doe 10 000 NOK" will fulfill these criteria. The statement "I, Tom Thomson, Owes John Doe 10 000 NOK if/on the condition that..." will not fulfill these criteria.

To make it easier to recover the debt if the debtor does not pay at the correct time, you could add an enforcement clause. An enforcement clause is a clause in the promissory note where the debtor and the creditor agree that the claim can be enforced by the creditor without a lawsuit and that the promissory note can be a basis for enforcement of the claim by the state. The point of the matter is that it must be written clearly that you as the creditor does not have to go to a court to get a basis for enforcement, and that the clause instead serves as a basis for enforcement. For the promissory note to serve this function, its creation must be witnessed by two adult persons of sound mind who provide their signatures on the promissory note.

An example of an enforceable promissory note:

<b>ENFORCEABLE PROMISSORY NOTE</b>	
<p>I, (debtor's name) ((national identity number)), declare that I owe (creditor/you), ((national identity number)) 60 000 - sixty thousand - NOK which I will pay back in full the (insert date which the loan shall be paid back).</p>	
<p>A yearly interest of ___% will be calculated on the outstanding claim from the xx.xx.xxxx (date).</p>	
<p>If redeeming payment is not paid when specified according to this agreement, the interest rate specified by law shall apply, see forsinkelsesrenteloven section 2, cf. section 3.</p>	
<p>If outstanding debt is not paid by the date specified above, all the outstanding debt can be claimed at once.</p>	
<p><b>The parties agree that the debt, interest, and costs stemming from the collection of this debt can be collected without a lawsuit and that this promissory note is a basis for enforcement, see tvangsfylldelsesloven section 7-2 letter a.</b></p>	
<p><b><u>(Place and date)</u></b></p>	<p><b><u>(Debtors signature)</u></b></p>
<p><b><u>(Witness 1 signature)</u></b></p>	<p><b><u>(Witness 2 signature)</u></b></p>

If a debt is not paid on time, there are different ways to collect it using the legal system. We will get back to this in chapter 5 and 6.



## 4. IMPORTANT CONSIDERATIONS BEFORE YOU PURSUE A MONEY CLAIM

### 4.1. The normal expiration date for a money claim

The first thing you have to do is to examine if the claim has expired due to the statute of limitations. If the claim has expired the debtor can still choose to pay the claim, but he or she cannot be forced to do so using the legal system. For example, a court will reject an expired claim.

The common statute of limitations in Norway is three years, from the first time when the creditor could demand payment from the debtor. This time will usually be the same as when the claim came into being. For example, if your tenant is due December 1<sup>st</sup> 2015, the money claim will expire December 1<sup>st</sup> 2018.

### 4.2. For when you have a promissory note

For claims stemming from a loan or a promissory note, the statute of limitations is ten years, see foreldelsesloven section 5. This means that you can collect the debt using the legal system up to ten years after you could first demand payment of the money.

If you are approaching the end of the statute of limitations for your claim, it is important to be aware that it can be extended. You should do this well ahead of the time of expiration for your claim.

There are two ways to do this:

1. You can get a declaration from the debtor where he explicitly or through his actions acknowledges your money claim. An example of this can be a promise to pay the money claim, or if the debtor pays interest on the money claim. If the debtor promises to pay, you should get this in writing, for example in an e-mail.
2. The other way to interrupt the statute of limitations is by sending a legal complaint to the Court or the Conciliation Board.

If you do either of these two things after two and a half years, and the statute of limitations for your claim is three years, the statute of limitations will be extended by additional three years from the date you extended the statute of limitations.

If you are in doubt, whether your claim has expired or not, you should contact someone with legal expertise for help. Submitting a complaint to the Court costs money that will be wasted if the claim is expired.

Some kinds of money claims will be subject to a successive statute of limitations. For example, if you do not get paid salary several months in a row, the claim for the missing salary will expire at different times. The claim for each month will expire three years after the month you should have been paid that salary. If you approach the statute of limitations for the first claim, it is important to extend the statute of limitations on your other claims quickly. More and more of the claim will expire as time goes by.

### **4.3. Determining if the debtor has filed for bankruptcy**

It is always smart to check if the debtor has gone bankrupt, as this could be the reason for why you have not been paid. By examining the announcements in the Brønnøysund Register Center, you can easily find out if the different companies are bankrupt. You can find more about this on the website <http://www.brreg.no/>.

It is important to know if the debtor (for example, your employer) has gone bankrupt, because this is when the different deadlines (such as the NAV Lønnsgaranti) might start to run. In addition, the process of collecting debt will be different from that described in chapter 5 of this brochure. If the debtor is bankrupt, a trustee will be appointed. The trustee will be stated in the announcements in the Brønnøysund Register Center. You will then be able to enroll your claim through the trustee, see chapter 6.

In certain cases, a company may report that it will be dissolved. You can find announcements about dissolved companies at the Brønnøysund Register Centre website. You must then submit your claim to the Conciliation Board so that your claim is settled before the company finally resolves.

### **4.4. Assessing the likelihood of success should the case go to court**

It is important to be aware of the financial risk of legal processes. For example, if you lose a matter of a debt-collecting claim in the Conciliation Board, you will generally be charged with the other party's legal costs. This applies even if you are not assisted by a lawyer. In every case that is brought to the Conciliation Board you will be required to pay a court fee for the Conciliation Board to deal with the matter. Per January 1<sup>st</sup> 2018, the fee is 1130 NOK.

The cost is, however, limited by tvisteloven section 6-13. The amount is initially limited to four times the current court fee for legal aid at the Conciliation Board.

In advance of collecting debt, it is important to carefully consider the likelihood of success. Remember that you cannot make empty allegations without being able to document the claim in a satisfactory manner. Because of this, it is important to consider the process risk before starting a legal process.

If the case has been dealt with by the Conciliation Board and appealed to the District Court, the court fee will increase, and the expenses of an attorney may be significantly higher than in the Conciliation Board proceedings. Although it is possible to be self-proclaiming, you must always have in mind that other party can use a lawyer in both the Conciliation Board and the District Court. Before bringing the matter to the District Court, it will be even more important to make the overall assessment, as a loss in the District Court will lead to far higher costs than a loss in the Conciliation Board.

In addition to the financial risk, legal processes will also take a lot of time and may cause personal stress.

#### **4.5. Assessing the likelihood that the debtor has means to cover the claim**

Even if you were to win the claim and request a debtor's payment, there would be a risk that the debtor would not have resources to cover the claim. It may be that other creditors have been faster than you to claim their money, or it may be that the debtor simply does not have current funds at all.

## **5. THE PROCESS OF DEBT COLLECTION**

### **5.1. STEP 1: Sending a claim letter**

#### **5.1.1. Considerations**

Normally you should start by submitting claim letter to the person who owes you money. The claim letter is an overview of the basis of the claim and a statement that you are requiring money. The claim letter should contain a reference to tvisteloven section 5-2. In case the debtor does not pay the claim after you have sent the claim letter, this reference is necessary in order to proceed further with collecting your claim. This is described further in

chapter 5.1.6 below. In this section you can also find an example of how a claim letter can be written.

Be precautionous about the statute of limitation, and that filing a case to the Conciliation Board takes some time. Before the Conciliation Board has processed your case, the statute of limitations continues to run, which means that your claim can be obsolete. This is to avoid losing the ability to obtain payment.

*A claim must contain the following:*

#### *5.1.1.1. Recipient*

The correct recipient depends on who owes you money. If the debtor is a private person, he or she is required to send his/her home address registered in the Population Register (folkeregisteret, <https://www.skatteetaten.no/person/folkeregister/>). If the debtor is a company, one can find the address in the Brønnøysund Register Center ([www.brreg.no](http://www.brreg.no)). If the company has registered both a business and a postal address, you need to send it to the postal address. Also, it is common to address the claim letter to the company's chairman.

#### *5.1.1.2. Means of transportation*

For reasons of proof, the claim letter should always be sent to the debtor by registered post.

#### *5.1.1.3. The basis of the claim and attaching documentation*

The claim letter must contain a description of the basis of the claim. How detailed this description needs to be will be based on an overall assessment of the complexity of the case, the debtor's knowledge of the claim and other circumstances. The starting point is that the description should be detailed. The most important thing is to be able to prove your claim against the debtor. Do not be afraid, it is quite easy to write this kind of letter, and you do not have to be a lawyer to write it.

The claim letter should describe both the actual and legal side of the case. The actual side should define the current periods on which the claim is based, as well as explain why you have a claim against the debtor. The legal side does not need to be detailed, but the recipient must be able to understand the basis of the claim sent to him or her so that he or she is able to make a decision on whether or not the person wants to pay the claim. The only

reference you need to include is tvisteloven section 5-2. It is great if you have other references to sections and regulations, but it will not be necessary.

It would be wise to attach copies of documents to prove your claim to the actual side. However, this is no requirement for it. If you have proofed that you have lent someone money, you usually do not need to prove that they have not repaid you. The important part is to make it understandable what the requirement is about. Attaching copies of the documentation can help you prove the claim. Examples of such attachments may be copies of the employment contract, rental agreement, debt letter, money loan agreement, time sheets, pay slips, pictures, text messages, emails, receipts, etc.

If you are considering taking legal action – you must write it in the letter as well. This is a requirement to be able to do so.

### ***5.1.2. Information regarding means of payment***

The claim letter must contain the total amount of the claim, as well as how and when the claim is to be fulfilled. This means that your name, account number and the total requirement must appear. It should also appear if you require interest rates.

If the payment does not occur within the deadline, you will be able to calculate interest on overdue payment under forsinkelsesrenteloven. Interest on overdue payment will be calculated from the due date you decide. If there is no such date set in the claim letter, then the due date is set from 30 days after the date of the claim letter. Interest rates can be calculated using the interest rate calculator at [www.forsinkelsesrente.no](http://www.forsinkelsesrente.no). You can also attach a copy of the interest rate calculation to the claim letter.

If you set a due date in the claim letter, it is normal to set in 14 days after the date of the letter.

### ***5.1.3. Objections from the debtor***

We recommend that you ask for possible objections to the claim letter in writing.

### ***5.1.4. The dispute act section 5-2 - Notice of lawsuit***

*Section 5-2. Notice of claim and grounds for the claim.*

*(1) Before bringing an action, the party shall give notice in writing to the person or persons against whom the action may be brought. The notice shall contain*

*information about the claim and the grounds for the claim. The notice shall invite the opposite party to respond to the claim and the grounds for the claim.*

The section above states that; before the process starts, you shall notify in writing the other party about the claim. The alert shall state the claim that will be promoted and the basis for it. The alert should also encourage the other party to consider the claim and the basis of the claim.

We will highly suggest that you follow the terms in tvisteloven section 5-2. This is important if you need to take legal action to the Consultation Board or the District Court. If you do not send a notice, with reference to this section it may affect how the legal costs will be partitioned. On the next page, you can see an example of a claim letter with reference to tvisteloven section 5-2.

Example of a claim letter where the deadline is set in advance:

From  
(your name and address)

To  
(debtors name and address)

Date: xx.xx.xxxx

### **NOTICE OF CLAIM – THE DISPUTE ACT SECTION 5-2**

In the period of xx.xx.xxxx to xx.xx.xxxx I loaned you money several times. These money loans were loaned to you on the condition that you would repay the money.

**Attachment 1:** Overview of money exchange from xx.xx.xxxx – xx.xx.xxxx

To this date, you owe me x NOK. This sum is based on several small loans.

In order for a money loan to be repaid, there must be a legal binding agreement, the claims must be due, and they cannot be outdated.

We have both signed an agreement of the money loan, that states that I can reclaim the money. By SMS of xx.xx.xxxx, I asked you to repay me the money. Because I have required repayment in accordance with gjeldsbrevloven section 5 paragraph one, the claim is considered due.

**Attachment 2:** SMS correspondence dated xx.xx.xxxx

The limitation period for money loans is ten years according to foreldelsesloven section 5. Therefore, there is no doubt that the claim has not expired.

Therefore, I am entitled to get repaid the money claim.

According to forsinkelsesrenteloven section 2 and 3, the interest on overdue payment will accrue from the due date of the claim and until the payment of the claim is met. The delay rate for non-repayment is per today date x NOK. The total amount per this notice is x NOK.

**Attachment 3:** Calculation of delay rate for non-repayment, dated xx.xx.xxxx

I, therefore, require x NOK to be paid to account number xxx.xx.xxxxxx as soon as possible and no later than 14 – fourteen – days from the date of this notice.

If I do not receive payment, I will consider taking legal actions.

## 5.2. STEP 2: Getting a basis for enforcement and applying for enforcement of the claim

### 5.2.1. Introductory considerations

After you have sent an order will the proceedings will vary depending on the debtors response to the claim. In some cases, the claim will be payed, in others the claim will be contested and sometimes the claim will be undisputed by the debtor.

The various outcomes will be presented in the following.

### 5.2.2. *The debtor pays after having received the letter of demand*

Fulfillment of the claim means that the debtor has paid the outstanding claim to you and that you no longer have a claim against the person.

### 5.2.3. *The debtor does not pay after having received the letter of demand*

If the debtor has not fulfilled the claim within the deadline, the next step will be to obtain a so-called compulsory basis in order to enforce payment. An enforcement basis is necessary for the further process, whether the debtor disputes the claim or fails to pay without any disputes.

However, for the various procedures, different types of enforcement will be used. Different types of enforcement are used whether the debtor disputes the claim or leaves it undisputed.

The easiest way to secure an enforcement is to create an enforcement promissory note. An example, of this see chapter 3.2. above. If you do not have a promissory note, you should obtain this.

For disputed claims the common way to obtain an enforcement is through a settlement in the Conciliation Board or a judgment in court. A verdict of settlement that the debtor is obligated to pay you the debt, will work as an enforcement basis thorough the Execution Authority. As long as the verdict is about payment, it becomes enforceable immediately after the payment deadline has been exceeded without payment.

For undisputed claims you can make a promissory note according to tvangsfullbyrdelsesloven section 7-2 letter f.



The demand for payment or invoice, will typically be used if the claim is undisputed. The document will normally be sufficient to constitute the claim. However, this type of enforcement will not be enforceable until you have notified the debtor about the legal enforcement, see chapter 5.2.3.2. below.

#### *5.2.3.1. More about the procedure of disputed claims*

As mentioned, the typical basis of enforcement for claims that are disputed are judgment in the Conciliation Board or in District Courts. As a rule, cases of capital value must be processed in the Conciliation Board before the case is taken to the District Court. In exceptional circumstances, the case may be directly appealed to the District Court, for example where the sum has exceeded 125 000 NOK, and both of the parties are represented by a lawyer.

In this brochure we will only describe the procedure for getting a verdict in the Conciliation Board. This is most convenient in cases where one has a claim without legal assistance.

The Conciliation Board can in some cases give a judgment. To get a judgment in the Conciliation Board you must summon the debtor to the board so that they can give a verdict of your claim against him/her. Often the Conciliation Board will urge the parties to reach "a settlement in simplicity".

The complaint against the debtor must be sent to the Conciliation Board where the debtor has his or her habitual residence (or business place in case of a company).

The rate for court fee for settlement is 1130 NOK per January 1<sup>st</sup> 2018.

Example of conciliation proceedings:

### CONCILIATION PROCEEDINGS

Conciliation Board (x)  
(Address)

**Complaints:** (Your name and address)

**Complaint peer:** (Debtors name and address)

**Case regarding:** Claim on holiday pay

\*\*\*\*\*

*The actual side of the case*

I worked for (employer's name) from xx.xx.xxxx till xx.xx.xxxx. However, I did not receive holiday pay after the employment ended. Based on the holiday allowance, I have an outstanding requirement of x NOK, see holiday pay after paycheck of xx.xx.xxxx, attachment 1.

The claim has been made in notice after xx.xx.xxxx, see attachment 2.

Regardless, the claim has not been fulfilled after repeated obligation notices. The claim was also disputed in a telephone conversation, xx.xx.xxxx.

*The legal side of the case*

When an employment is ended, an employee has the right to receive holiday pay the last ordinary payday before resignation. The part of the pay that cannot be calculated by this date can be paid in connection with the final salary settlement, see ferieloven section 11 number third first paragraph.

I request that (employer's name) is called in for conciliation at the Conciliation Board. If the defendant is absent, I demand a default judgement according to tvisteloven section 6-10 article three letter a, cf. section 16-10 article two and section 6-10 article three letter b, to be determine.

**With reservations of further submissions and evidence, the following claim is hereby:**

- 1. (Counterparty's name) pays to (your name) an amount determined by the court's judgment, up to a maximum of x NOK, plus interest after forsinkelsesrenteloven section 3 from the due date for payment.**
- 2. (Counterparty's name) pays the court fee for conciliation of 1130 NOK.**

(Place) (date)

(Your signature)

**Attachment 1:** Paycheck from xx.xx.xxxx

**Attachment 2:** Statutory demand for payment

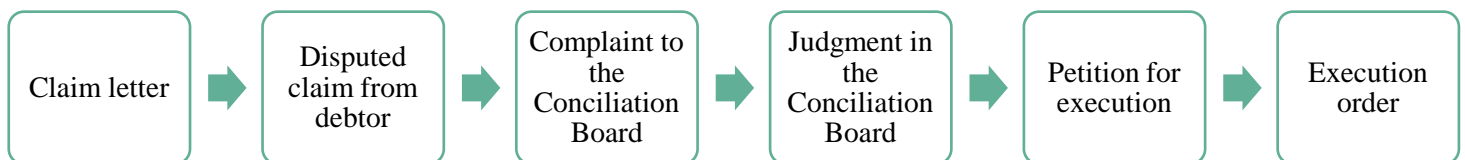
A default judgment is when the debtor is absent from the court meeting.

After you have received a judgment in the Conciliation Board, the judgment will be a compulsory basis for payment. In order to enforce the claim, you can now send a statement to the Executive Authority. After an execution order, the authority will often search for items of value in order to cover your claim, either by selling or security. If you get security in an item this can afterward be sold by force by the Execution Authority, see chapter 5.3.

The court fee for the application for execution is 1921 NOK per January 1<sup>st</sup> 2018.

If it turns out that you will not get an execution order you will still have to cover the fee for the execution proceedings. Therefore, you should conduct a risk assessment of whether it is probable that the debtor owns anything of value, that is not already secured or that he has sufficiently high income to achieve deduction from salary to cover the claim. If you are in doubt about this, you should consider whether you are willing to spend 1921 NOK in view of this risk, see the assessment in chapter 4.4. However, you can add the court fee to your claim.

Disputed claims can be illustrated as follows:



#### *5.2.3.2. More about the procedure for undisputed claims*

There are two ways to request undisputed claims. One can either ask for an absence judgment. If the debtor has not paid or denied the claim within the deadline, the next step in the process will be to send a notice that the claim can be enforced if the claim is not paid within fourteen days. There are advantages and disadvantages of the two approaches.

Example of enforcement order after tvangfullbyrdelsesloven section 4-18:

Date: xx.xx.xxxx

**NOTICE OF ENFORCEMENT – TVANGSFULLBYRDELSESLOVEN SECTION 4-18**

In reference to notice of claim sent by registered mail dated xx.xx.xxxx, where payment and due date expired xx.xx.xxxx. I have not received payment or objections against the claim.

I therefore require 15000 NOK, to be paid to account xxxx.xx.xxxxx as soon as possible and no later than 14 – fourteen – days from this notice.

Interest on overdue payment are calculated from thirty days after the date of claim of payment and until repayment occurs, see forsinkelsesrenteloven section 2, cf. section 3.

You are hereby made aware that if the claim is not paid within the deadline you will be petitioned for forced enforcement under tvangsfullbyrdelsesloven section 7-1 and 7-2 letter f, cf, section 4-18.

It is requested that you consider the claim and the premise, see tvisteloven section 5-2.

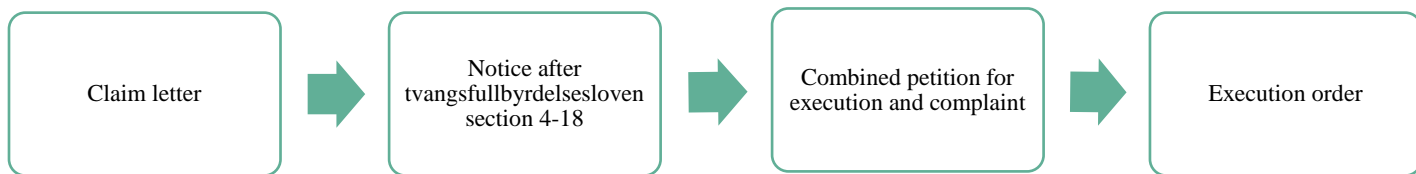
Sincerely,  
(your name)

If the payment deadline has expired and the claim is still not met or disputed, one can claim execution, see tvangsfullbyrdelsesloven section 7-2 letter f, and tvangsfullbyrdelsesloven section 4-18.

An application for execution based on the basis for execution "the document", see tvangsfullbyrdelsesloven section 7-2 letter f, one also must fulfill the formal requirements for a complain (forliksklage).

After the petition of execution has come to the Execution Authority an execution proceeding will be held. As mentioned, an execution proceeding is that the Execution Authority tries to find assets and take security in salary and insurance, so that you will be able to meet your claim.

In summary, if the claim is not disputed, the enforcement of the salary/payment process toward an execution order will be like this:



#### ***5.2.4. More about the enforcement of an enforceable promissory note***

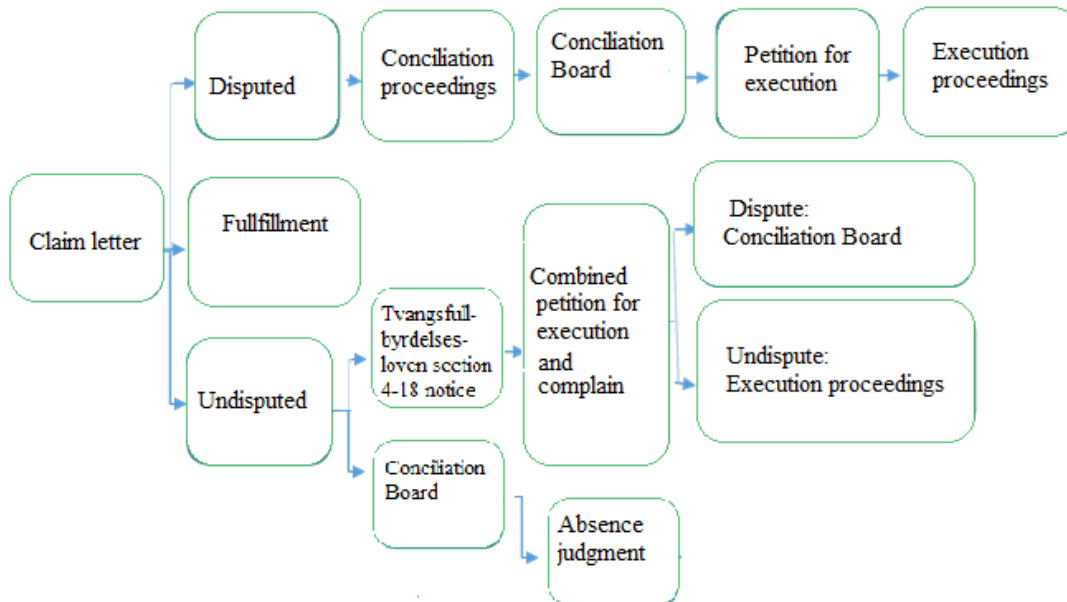
If you as the creditor have gotten the debtor to sign an enforceable promissory note, it will be unnecessary to initiate a recovery process in the form of a claim. You must, however, send a notice of enforcement of payment after tvangsfyllbyrdelsesloven section 4-18. You have to do this before you can send a petition of execution to the Execution Authority, see example in chapter 5.2.3.2. The debtor will then have an opportunity to make up for him- or herself without involvement of the Enforcement Authority.

Note that the claim cannot be enforced until fourteen days after the notice has been sent, see tvangsfyllbyrdelsesloven section 4-18. You can for example write in the notice: “You are hereby informed that if the amount of the claim is not paid within fourteen - 14 - days, there will be petitioned a forced execution, see tvangsfyllbyrdelsesloven section 7-1 and 7-2 letter a, cf. section 4-18”.

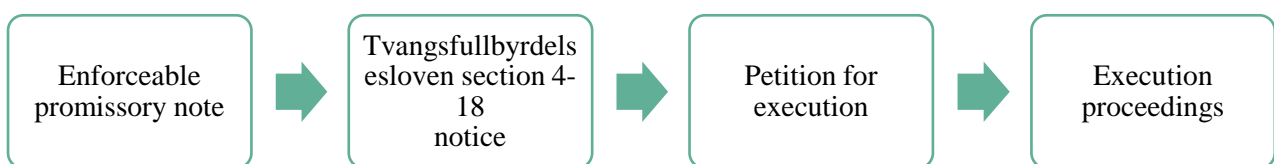
In a notice of enforcement according to tvangsfyllbyrdelsesloven section 4-18, based on an enforceable promissory note, it is natural to refer to it. Therefore, you should attach the enforceable promissory note to the notice that you will be sending.

### 5.2.5. Illustration of the recovery process (in brief)

#### 5.2.5.1. The recovery process if one has not secured the claim through an enforceable promissory note



#### 5.2.5.2. The recovery process if one has secured the claim through an enforceable promissory note



### 5.3. STEP 3: Execution sale

After you have submitted a claim, the Execution Authority will hold an execution order. The Execution Authority will look for possessions to take security in.

1. The execution order can result in a security, in for instance a car, that the debtor later may be forced to sell.
2. The execution order may also end up with a fixed deduction on the debtor's salary account or other values.

3. However, the execution order can be unsuccessful if the Execution Authorities does not find items or accounts that can cover your claim. Then you will not get any coverage of your claim at that time. An unsuccessful execution proceeding will give a new limitation period of the claim for ten years.

An execution proceeding with the result of no expenses is not wasted. If you get a salary deduction in the debtor's salaries or social security benefits, your claim will most likely be gradually paid over time. If you get an execution security in an item, the debtor's item can be forced sold.

The request for forced sale must be sent to the Execution Authority. Note that the request for forced sale entails fees. For questions about forced sale and cost of this, the Execution Authority can be contacted for guidance.

## 6. ESPECIALLY FOR EMPLOYEES WITH OUTSTANDING SALARY IN THE CASE OF BANKRUPTCY

If the debtor is bankrupt, it is more suitable to collect the claim through the bankruptcy institution. The reason is that an employee often will not receive anything from the Execution Authority when the employer is insolvent. By collecting the claim via bankruptcy, one can get coverage for outstanding salary obtained from NAV Lønnsgaranti. The salary is only covered 12 months back in time after the salary claim is due. The deadline for calculating this is the date of filing of the bankruptcy estate. The deadline day is the day when the bankruptcy proceedings that was followed came into the District Court.

Holiday pay are covered by NAV Lønnsgaranti if they are earned in the same year as the date of filing for the estate or the year before. There are also certain limitations for claims that exceed a certain amount, see more of this in lønnsgarantiloven section 1 or contact the estate manager.

### 6.1. How to declare your employer bankrupt

If one is to claim one's employer bankrupt, it is advisable to follow a procedure in konkursloven section 63 (note that this only complies to complies with statutory accounting obligations) for the establishment of insolvency proceedings.

The description that follows must be followed if bankruptcy is to be opened:

The first step is to send a claim letter to your employer. Next, you must wait at least four weeks before sending a letter to the Execution Authority asking to announce a bankruptcy notice for your employer, see the example of bankruptcy notice below. The fee for the Execution Authority to process a notice if bankruptcy is 565 NOK (half a court fee) per January 1<sup>st</sup> 2018.

Example of a bankruptcy notice:



Date: xx.xx.xxxx

(Debtors address)

**BANKRUPTCY NOTICE**  
**– (THE COMPANY'S NAME) – (THE ORGANIZATION NUMBER)**

I refer to the claim letter sent by registered mail xx.xx.xxxx, see attachment and telephone correspondence of xx.xx.xxxx. I have till this date not received my outstanding salary with overtime supplement and holiday payment, in total x NOK. In addition, I claim half a court fee to cover expenses for the announcement of this notice.

There will also be calculated interest rates on overdue debts from the individual claim and till the payment is settled, see forsinkelsesrenteloven section 2, cf. section 3.

**I encourage you to pay the outstanding salary for the working hours, overtime and holiday pay, the interest on overdue debts and notification notice expenses to account xxxx.xxxxx.xxxx as soon as possible and no later than 14 – fourteen – days from the date of this notice.**

It is requested that proper tax deductions will be made on the payment and that paychecks are issued.

The rule is that if the reason for the absence of salary is lack of ability to pay, I can, as an employee, request the employer for bankruptcy. I cannot see any response or indication that it is the willingness to pay and not the ability to pay, which is the reason for non-payment. As the claim had not yet been met, I consider the non-payment ability to be non-transient.

This means that if (the company's name) does not make payment within the deadline, this gives me access to a request of bankruptcy after konkursloven section 63 cf. section 60.

**It is hereby notified that I have access to request the company bankrupt if payment is not made within the deadline. When handling the bankruptcy request, insolvency is generally expected to exist if payment is not received after bankruptcy notice pursuant to konkursloven section 63 has been served to you.**

Sincerely,  
(your signature)

**Attachment 1:** Notice of claim dated xx.xx.xxxx with annex

After the deadline for bankruptcy has expired, you must send a bankruptcy petition to the District Court in the area where your employer's address is registered. The bankruptcy request must reach the district court within two weeks after the deadline for bankruptcy notice has expired.

## Example of a petition for bankruptcy presented by a creditor:

### BANKRUPTCY PETITION TO (THE LOCAL DISTRICT COURTS NAME)

Claimant: (Your name and address)  
Defender: (The companies name and address)

\*\*\*\*\*

#### The reason for the money claim

The case concerns outstanding salary, overtime payment and holiday pay for (the time you are basing the claim on). I hereby request that my employer's estate is treated as a bankruptcy estate, see konkursloven section 60 and 63.

I worked for (the company name) from xx.xx.xxxx and until the employment expired xx.xx.xxxx. I have an outstanding salary for normal working hours, overtime hours and holiday pay for the period xx.xx.xxxx through xx.xx.xxxx.

The claim latter is made and has not disputed. A claim letter was sent by registered mail on xx.xx.xxxx, see attachment 1. Afterward, an obligation reminder was sent xx.xx.xxxx, see attachment 2. I have still not received any salary.

A bankruptcy notification was sent to the Execution Authorities in (the place of this) with a request of assistance for the notification of bankruptcy notice on xx.xx.xxxx. The bankruptcy notice was announced to the defendant on xx.xx.xxxx. Since the bankruptcy notice, (debtors name) has been properly notified after konkursloven section 63. The claim has not been paid after the deadline for bankruptcy, a presumption of insolvency is hereby made, see attachment 3 and 4.

#### Overview of the claim

Ordinary salary	x NOK
Overtime salary	x NOK
Holiday payment	x NOK
Interest on overdue payment xx to xx (8,5 %)	x NOK
Half court fee	x NOK
Expenses for obtaining company certificate	x NOK
<b>Total sum</b>	<b>x NOK</b>

#### **My total claim constitutes of x NOK.**

As an employee, I am exempt from payment of security, see konkursloven section 67 fourth paragraph.

\*\*\*\*\*

With reservation of changes in submission and future evidence, the claim is as following:

#### **ASSERTION**

(The companies name) be declared bankrupt.  
(Place) the,  
(date xx.xx.xxxx)

(Your signature)

**Attachment 1:** Copy of notification of claim (with attachments) dated xx.xx.xxxx

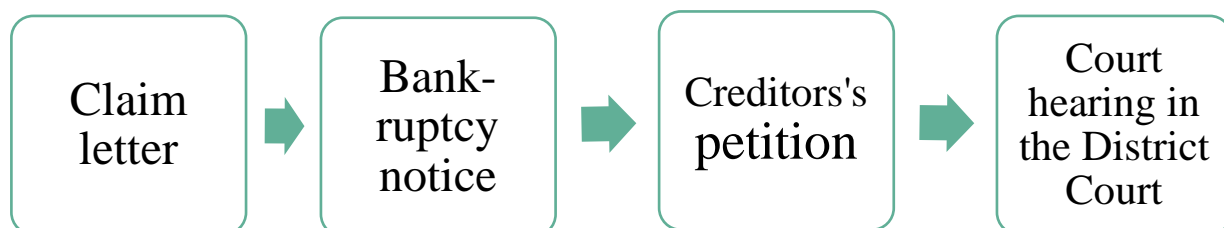
**Attachment 2:** Copy of obligation reminder dated xx.xx.xxxx

**Attachment 3:** Copy of bankruptcy notice dated xx.xx.xxxx

**Attachment 4:** Copy of confirmation the service of proceedings dated xx.xx.xxxx

**Attachment 5:** Copy of company certification dated xx.xx.xxxx

After the bankruptcy request has arrived at the District Court, the District Court will summon you and the one who is alleged bankrupt for a court hearing. After the parties have submitted their evidence and have been heard, the court will decide whether or not bankruptcy shall be opened. The District Court can provide more guidance in this process.



After the bankruptcy has been opened, a lawyer is appointed as the trustee in the bankruptcy estate. As an employee, you have to send your claim to the bankruptcy trustee, who will give you guidance in the situation. Go to work as normal, until you get another message from the firm.