



# **Compensation for damages caused by the Phoenix pay system**

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Phénix



# Compensation for damages caused by the Phoenix pay system

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## From Treasury Board of Canada Secretariat

In June 2019, the Government of Canada and a number of public service unions finalized an agreement to compensate employees, current and former, who were paid through the Phoenix pay system. Separate agencies have since negotiated a similar agreement with their bargaining agents.

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## Who this agreement applies to

The Phoenix damages agreement **applies to**:

Current employees, former employees and the estates of deceased employees represented by these bargaining agents:

- Association of Canadian Financial Officers
- Association of Justice Counsel
- Canadian Association of Professional Employees
- Canadian Federal Pilots Association

- Canadian Merchant Service Guild
- Canadian Military Colleges Faculty Association
- Canadian Union of Public Employees Local 104
- Canadian Union of Public Employees Local 2656 (National Film Board)
- Canadian Union of Public Employees SGCT 4835 (National Film Board)
- Federal Government Dockyard Chargehands Association
- Federal Government Dockyard Trades and Labour Council (East)
- Federal Government Dockyard Trades and Labour Council (West)
- International Brotherhood of Electrical Workers
- Professional Association of Foreign Service Officers
- Research Council Employees' Association
- The Professional Institute of the Public Service of Canada
- Unifor Local 87-M (Non-Supervisory Printing Services)
- Unifor Local 5454 (Canadian Air Traffic Control Association)
- Unifor Local 2182 (Radio Operations)
- Union of Canadian Correctional Officers

## Other eligible employees

The agreement **also applies to**:

- employees excluded from bargaining agents who have signed on to the agreement
- unrepresented employees
- executives

Note: Employees of **separate agencies** who have a similar agreement may submit claims.

This agreement **does not apply** to:

- employees represented by bargaining agents who did not sign the agreement

- members of the class action as certified in *Bouchard c. Procureur Général du Canada* (200-06-000214-174) and any other member of the class that could be added by the courts, including:
  - students
  - casual employees
  - workers working no more than one third of regular hours
  - employees with terms of less than three months

## Overview of the agreement

The agreement provides compensation from the 2016-2017 fiscal year to the 2019-2020 fiscal year.

### 1. General compensation for damages

In recognition that employees have been impacted, either directly or indirectly, by the implementation of the Phoenix pay system, the government has negotiated an agreement by which employees, former employees, and the estates of deceased employees are awarded general compensation in the form of additional leave.

This leave represents general compensation for financial and/or non-financial damages, including but not limited to interest, general stress, aggravation and lost time.

The agreement provides for the award of:

- crediting employees' leave banks with up to 5 days additional annual leave
- a payment equivalent of up to 5 days additional annual leave to former employees and the estates of deceased employees

▼ General compensation for damages for current employees:

Additional annual leave

Current employees are entitled to the following:

- 2 additional days of leave for the 2016 to 2017 fiscal year
- 1 additional day of leave for the 2017 to 2018 fiscal year
- 1 additional day of leave for the 2018 to 2019 fiscal year
- 1 additional day of leave for the 2019 to 2020 fiscal year

**To qualify** for compensation for any fiscal year, an employee must have been employed for one day of that fiscal year, whether they were:

- on paid or unpaid leave
- on assignment
- otherwise not active

Federal organizations must credit leave to eligible current employees on or before November 12, 2019.

The one-day leave credit for the 2019 to 2020 fiscal year will be allocated within 150 days after the end of that fiscal year (March 31, 2020). The agreement is designed this way to ensure that new employees, who join the public service between the implementation of the agreement and March 31, 2020, are also compensated.

If an employee retired or left the public service on or before June 12 2019, they are considered a former employee and can claim a payment equivalent to additional leave.

▼ General compensation for damages for former employees: Payment equivalent to additional annual leave

Former employees and the estates of deceased employees can request a payment equivalent to the additional leave granted to current employees. The payment will be calculated based on the salary rate of the former employee's position on the day the claim is processed.

**To qualify** for compensation for any fiscal year, a former employee must have been employed for one day of that fiscal year, whether they were:

- on paid or unpaid leave
- on assignment
- otherwise not active

## 2. Compensation for severe damages

Current and former employees who suffered severe impacts and hardship because of Phoenix can receive financial compensation for damages valued above and beyond the 5 days of additional leave granted as general compensation for financial and/or non-financial damages, including but not limited to interest, general stress, aggravation and lost time.

The provisions described below for compensation for **severe damages** apply to current employees, former employees, and the estates of deceased employees eligible under the terms of the agreement.

All claims for the processes described below will be processed on a **case-by-case basis**.

### ▼ Financial costs and lost investment income

Individuals who have been financially impacted by Phoenix may request compensation if, for example, they cashed in investments, missed opportunities to earn interest on savings accounts, or experienced delays in receiving severance, pension or pay and were not able to earn interest on those sums.

A threshold of \$1,500 will apply to these claims. This means employees must experience a loss on missed opportunities or to earn interest greater than \$1500 to submit a claim.

#### ▼ Severe personal or financial hardship

In 2020, a claims process will be implemented for those who, because of Phoenix pay issues, experienced severe personal or financial hardship such as, but not limited to, bankruptcy, impacts to credit ratings, mental anguish or trauma. More information will be available later in 2020.

A threshold of \$1,500 will apply to claims relating to compensation for severe personal or financial hardship, or other demonstrable cases. This means employees must experience a loss (e.g. receiving compensation) greater than \$1,500 to submit a claim.

#### ▼ Leave taken because of health issues related to Phoenix

Employees who took sick leave or other types of paid or unpaid leave because of an illness caused by problems with Phoenix can also be compensated. More information will be available later in 2020.

We are developing a process by which leave can be re-credited or otherwise compensated. For claims that are accepted:



- for current employees: sick leave or paid leave used will be re-credited to the employee's leave bank, if applicable, and unpaid leave may be compensated
- for former employees: the use of other paid leave (excluding sick leave) or unpaid leave will be compensated

The \$1,500 threshold applicable to other types of claims does not apply to this.

## Related information

- [Phoenix pay system damages agreement](#)
- [Frequently asked questions](#)
- [Claim expenses, financial losses and damages caused by Phoenix](#)
- [Compensation for damages and your personal income tax](#)

### **Date modified:**

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