

FREQUENTLY ASKED QUESTIONS REGARDING NORTEL CANADIAN CONTINUING EMPLOYEES (NCCE)

- Continuing Employment at Nortel
- Sales of Assets to Ericsson
- Nortel Pension and TRA Issues
- CCAA Claims Process and Proofs of Claim

CONTINUING EMPLOYMENT AT NORTEL

Q. I am actively seeking employment outside Nortel. If I resign, do I forfeit my entitlement to severance pay?

Yes. Generally speaking, an employee who resigns is not entitled to receive ESA or common law notice or severance pay.

As a result of the Court Order, is Nelligan O'Brien Payne providing legal advice to continuing Nortel employees at no cost to the employees?

At this time, we have been appointed to provide general advice and representation to continuing employees. However, the scope of our mandate is still under discussion.

SALE OF ASSETS TO ERICSSON

Q. When will I receive an offer of employment from Ericsson?

No date has been specified but it could be as early as the week of August 3rd.

Q. How much time will I have to review Ericsson's offer of employment?

The agreement between Ericsson and Nortel states that employees shall be given not less than one week to consider any offer.

Q. Can Ericsson change the terms and conditions of my employment?

Ericsson has agreed to provide employees with offers that are on "terms and conditions no less favorable, in the aggregate, than those that Employees currently have, subject to certain adjustments to conform to Purchaser's standard employment policies where legally possible".

The agreement does not provide any details of what will be in the offers.

Ericsson is not obliged under the agreement to offer any equity, retiree, medical benefits, or defined pension benefit in any offer it makes, unless required to do so by law. There are no legal requirements that would oblige Ericsson to offer those benefits.

Under the agreement, Ericsson must maintain the no-less-favourable terms and conditions for 12 months following the Closing Date. The agreement preserves Ericsson's right to make changes to employee entitlements during the 12-month period, as long as the changes are made generally applicable across its entire employee population (i.e., as long as the changes do not apply only to former Nortel employees).

Q. If I receive an offer of employment from Ericsson, do I have to accept the offer?

No, you cannot be forced to accept employment with a new employer.

Q. What are the consequences if I decline the offer of employment?

If the terms and conditions being offered by Ericsson are substantially the same as your Nortel terms and conditions of employment and you decline the offer, Nortel would normally be required to provide you with the notice and severance pay to which you were entitled under the Ontario *Employment Standards Act, 2000*.

However, Nortel is not honouring its statutory obligations with respect to termination and severance pay while it is under CCAA protection. You would have to claim your statutory entitlements through the CCAA claims process once it is established.

Your claim would be limited to statutory termination pay (8 weeks maximum) and severance pay (26 weeks maximum). You might not be entitled to claim pay in lieu of notice at common law, because by declining the purchaser's offer of comparable employment, you may have failed to take reasonable steps to mitigate any damages arising out of the termination of your employment with Nortel.

Q. What if the terms and conditions offered by Ericsson are not comparable to my Nortel terms and conditions of employment?

To the extent the terms are different and that results in a loss to you, you would have a claim against Nortel for the difference.

Q. Will Ericsson recognize all of my service with Nortel?

Yes. Ericsson has agreed to recognize Nortel service dates for all purposes other than benefit accrual under any defined benefit plan. It is obliged at law to do this.

Q. What will happen to my accrued vacation?

The agreement provides that Nortel will either pay out accrued vacation or allow employees to take equivalent paid time off.

Q. Will my group benefits coverage remain in place?

Ericsson will likely offer benefits substantially similar to your Nortel coverage.

Ericsson will waive any eligibility periods or evidence of insurance requirements and will honour any deductible payments made by employees. This is significant for employees who are ill or who have pre-existing medical conditions.

Q. Does Ericsson have a pension plan?

Ericsson has agreed to provide employees with a registered pension plan for at least five years after the Closing Date. The agreement does not indicate whether it is a Defined Benefit plan or a Defined Contribution plan. Most likely, it will be a Defined Contribution plan. Transferring employees' participation in the plan will start after the Closing Date.

Q. Can I stay at Nortel or go back to Nortel if I find another position within the company?

Under the terms of the agreement with Ericsson, there is a 12-month non-solicitation period during which Nortel is prevented from hiring back transferring employees. This prohibition would not apply to a transferring employee whose employment was subsequently terminated by Ericsson without cause. Ericsson has a corresponding obligation to not hire other Nortel employees.

Q. Are there any Nortel obligations that Ericsson does not have to honour?

Ericsson will not be responsible for:

- any liability Nortel has to make payments or provide benefits under any benefit plan that is not being transferred to Ericsson
- the KEIP, KERP and Calgary retention bonus
- any liabilities related to employment or termination of employment from Nortel, including any liabilities Nortel owes employees prior to or in connection with the Closing (i.e., severance, wages, bonuses, pension benefits, taxes, WSIB, etc.)

Q. What happens if Ericsson terminates my employment after the transfer?

We have not seen Ericsson's offer letters and do not know if they will include a termination provision limiting employees' entitlements on termination. Most Nortel employees are not subject to such a restriction and it is therefore an implied term of their contracts of

employment that they are entitled to reasonable notice of termination at common law or pay in lieu thereof if their employment is terminated without cause.

A termination provision that attempted to restrict termination entitlements would not be a comparable term of employment.

In the absence of a termination provision limiting your entitlements, Ericsson would be obliged to provide you with reasonable notice of termination or pay in lieu thereof.

Q. I am in receipt of LTD benefits from Nortel. Will those benefits continue?

So far, Nortel has continued to pay LTD benefits. However, there is no guarantee that it will continue to do so. Koskie Minsky has been appointed to represent employees in receipt of LTD benefits and inquiries about your ongoing entitlements should be directed to that firm.

NORTEL PENSION AND TRA ISSUES

Q. If I accept employment with Ericsson, how will that impact my pension and TRA?

At this point, we do not have sufficient information regarding the pension-related aspects of the transfer to be able to advise on this. We are seeking details of the pension arrangements.

Q. Nortel has told me that because Ericsson has a pension plan, I cannot both retire from Nortel and accept employment with Ericsson. I was also told that I cannot take my Nortel pension until my employment with Ericsson ends. Is this legally correct?

The answer will depend on the pension arrangements made between the companies, which we don't know yet. Generally speaking, an asset sale is a termination at common law. However, under s.80 of the *Pension Benefits Act*, affected employees, for pension purposes, are deemed not to be terminated by reason of the transaction. Consequently, employees who are not otherwise retirement eligible and who accept employment with Ericsson will not have the option of taking their pension or withdrawing their commuted value. Nortel employees who become employed by a successor employer like Ericsson and become a member of a pension plan of the successor employer:

- a) continue to be entitled to the benefits provided under the Nortel pension plan to the effective date of the sale;
- b) are entitled to credit in the pension plan of the successor employer for the period of membership in the Nortel's pension plan, for the purpose of determining eligibility for membership in or entitlement to benefits under the pension plan of the successor employer; and

- c) are entitled to credit in Nortel's pension plan for the period of employment with the successor employer for the purpose of determining entitlement to benefits under Nortel's pension plan.

Q. Will Nelligan O'Brien Payne be representing continuing and transferring Nortel employees with respect to their pension and TRA issues?

Our intention is to represent continuing and transferring employees with respect to these issues. However, the scope of our mandate is still under discussion.

CCAA CLAIMS PROCESS AND PROOFS OF CLAIM

There is currently no claims process for employee claims. Once a process has been put in place, employees will be able to submit a proof of claim seeking compensation for any employment-related losses they have suffered.

A claims process for other non-employee creditors is expected to be approved on July 30, 2009.