

Claims Reporting

What Should You Report and What Should the Report Contain?

This document provides an overview of the claims reporting process.

ENCON's Claims Commitment

The value of your insurance policy can be measured by the ability of the ENCON claims team to respond promptly and effectively to claims. To obtain the full benefit of our claims service, it is important that you understand the claims reporting process and what is expected of you throughout the life of a claim.

While this publication provides you with a basic understanding of the claims reporting process, it is not an exhaustive review. All members of the ENCON claims team are available to answer your questions and guide you through the claims process.

What Should You Report?

All ENCON policies generally require that you give written notice to the ENCON Claims department of all claims and all circumstances that could reasonably give rise to a claim.

What Is a Claim?

In most professional liability policies issued by ENCON, "CLAIM" is a defined term which includes verbal or written allegations whether in the form of a discussion with a claimant, a demand letter or a legal proceeding such as a Statement of Claim, a Declaration or a Motion. If you are uncertain whether the communication you received constitutes a claim or perhaps a circumstance that could result in a claim, please consult your insurance broker or call one of our claims analysts for assistance.

What Should the Report Contain?

As much information as possible, including the following:

- If suit is brought, include a copy of the initial legal process (e.g., a Statement of Claim, a Declaration, a Motion or other legal process). If possible, note the date on which you were served.
- If no suit is brought but you have received a demand letter, include a copy of the letter and details surrounding the receipt of the letter.
- If you become aware of circumstances that could reasonably give rise to a claim or have received oral threats of a lawsuit, then, subject to the terms and conditions of your specific policy wording, notice to ENCON should contain the following details:

- The specific reasons for anticipating a claim to result from the circumstances or threats
- The specific nature and date of the alleged error or omission which gave rise to the circumstances
- The alleged injury or damages
- Full names of the potential claimants and insureds involved
- Full details of the manner in which you first became aware of the circumstances

If you are aware that a loss has occurred, please report the details of such loss including the type of loss, location, and date and time of loss.

Reporting a Claim to ENCON

Your insurance policy requires that you report a claim to ENCON as soon as possible after you first become aware of the claim. The claim must be reported in writing and may be submitted to ENCON:

- **by email:** newclaims@encon.ca
- **by mail, courier or fax at the following address and fax number:**
ENCON Group Inc.
500-1400 Blair Place
Ottawa, Ontario K1J 9B8
Attention: Claims Department
Fax: 613-238-7180

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Timeliness of reporting is critical and, in some cases, could make the difference between coverage for a claim being accepted or denied. The majority of ENCON liability policies are claims-made and reported policies. That means that the claim must not only be made against you, but must also be reported to ENCON during the policy period. Even with occurrence-based policies, it is essential that ENCON receive notice of a loss as soon as possible after the loss occurs. Such prompt notice allows the ENCON claims team to take steps to limit the extent of the loss, wherever possible.

Please note that in Quebec, the civil procedures provide for an extremely short time period for defendants to respond to an originating application to institute proceedings (15 days from the date of service). Therefore, it is imperative that you immediately forward to us all legal proceedings served upon you for which you will be seeking coverage under an ENCON insurance policy. We recommend that you forward such proceedings directly to us as soon as you receive them. We recommend that you treat demand letters similarly.

When Should You Report?

ENCON's policies generally require that you report all claims or circumstances that could reasonably give rise to a claim as soon as practicable after being made aware of them.

Prompt notification is required by the policy and is essential to enable the Claims department to provide early advice to the insureds and to ensure that the insureds' rights and interests are properly protected by taking any necessary action at the earliest opportunity. Furthermore, we encourage you to report in a timely fashion as delay in the notification of claims could prejudice the insurer's position and thereby result in a denial of coverage.

Guidelines for Insureds – “What should I do when a claim is made against me?”

- It is your obligation to preserve all documents in your possession or control that could be potentially relevant to the claim (i.e., minutes of meetings, correspondence, memoranda, etc.). This obligation extends to electronic documents.
- Inform your broker and the ENCON Claims department as soon as possible.
- Do not discuss the claim with anyone, especially the claimant or claimant's lawyer. Any statement you make at the time could be used against you as an admission of liability, which in turn could result in a denial of coverage under the policy.

If you are unsure as to whether a matter should be reported to ENCON, please call the Claims department for advice, or to discuss a claims situation on a confidential basis. We are here to help you.

In the event that you find yourself in the position of having to report a claim, you may find another ENCON document entitled *Claims Process* to be informative. This document will introduce you to the members of the claims team and it will walk you through the stages in the litigation process. If you have any questions concerning a claim or a claim situation, please contact the Claims department for confidential advice.



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To view some typical claims examples, please visit our website –
www.encon.ca/claimsexamples