



Employment Protection Act 1975

1975 CHAPTER 71

PART II

RIGHTS OF EMPLOYEES

Insolvency

64 Employee's rights on insolvency of employer

- (1) If on an application made to him in writing by an employee the Secretary of State is satisfied—
- (a) that the employer of that employee has become insolvent ; and
 - (b) that on the relevant date the employee was entitled to be paid the whole or part of any debt to which this section applies,
- the Secretary of State shall, subject to the provisions of this section, pay the employee out of the Redundancy Fund the amount to which in the opinion of the Secretary of State the employee is entitled in respect of that debt.
- (2) In this section the " relevant date " in relation to a debt means the date on which the employer became insolvent or the date of the termination of the employee's employment, whichever is the later.
- (3) This section applies to the following debts:—
- (a) any arrears of pay in respect of a period or periods not exceeding in the aggregate eight weeks ;
 - (b) any amount which the employer is liable to pay the employee for the period of notice required by section 1(1) or (2) of the Contracts of Employment Act 1972 (minimum period of notice) or for any failure of the employer to give the period of notice required by section 1(1) of that Act;
 - (c) any holiday pay in respect of a period or periods of holiday, not exceeding six weeks in all, to which the employee became entitled during the 12 months immediately preceding the relevant date ;
 - (d) any basic award of compensation for unfair dismissal;

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (e) any reasonable sum by way of reimbursement of the whole or part of any fee or premium paid by an apprentice or articled clerk.
- (4) For the purposes of subsection (3) (a) above any such amount as is referred to in section 63(2) above shall be treated as if it were arrears of pay.
- (5) The total amount payable to an employee in respect of any debt mentioned in subsection (3) above, where the amount of that debt is referable to a period of time, shall not exceed £80 in respect of any one week or, in respect of a shorter period, an amount bearing the same proportion to £80 as that shorter period bears to a week.
- (6) The Secretary of State may vary the limit referred to in subsection (5) above after a review under section 86 below, by order made in accordance with that section.
- (7) A sum shall be taken to be reasonable for the purposes of subsection (3)(e) above in a case where a trustee in bankruptcy or liquidator has been or is required to be appointed if it is admitted to be reasonable by the trustee in bankruptcy or liquidator under section 34 of the Bankruptcy Act 1914 (preferential claims of apprentices and articled clerks), whether as originally enacted or as applied to the winding up of a company by section 317 of the Companies Act 1948.
- (8) Subsection (7) above shall not apply to Scotland, but in Scotland a sum shall be taken to be reasonable for the purposes of subsection (3)(e) above in a case where a trustee in bankruptcy or liquidator has been or is required to be appointed if it is admitted by the trustee in bankruptcy or the liquidator for the purposes of the bankruptcy or winding up.
- (9) The provisions of subsections (10) and (11) below shall apply in a case where one of the following officers (hereafter in this section referred to as the "relevant officer") has been or is required to be appointed in connection with the employer's insolvency, that is to say, a trustee in bankruptcy, a liquidator, a receiver or manager, or a trustee under a composition or arrangement between the employer and his creditors or under a trust deed for his creditors executed by the employer; and in this subsection "liquidator" and "receiver" include the Official Receiver in his capacity as a provisional liquidator or interim receiver.
- (10) Subject to subsection (11) below, the Secretary of State shall not in such a case make any payment under this section in respect of any debt until he has received a statement from the relevant officer of the amount of that debt which appears to have been owed to the employee on the relevant date and to remain unpaid; and the relevant officer shall, on request by the Secretary of State, provide him, as soon as reasonably practicable, with such a statement.
- (11) Where—
- (a) a period of six months has elapsed since the application for a payment under this section was received by the Secretary of State, but no such payment has been made;
 - (b) the Secretary of State is satisfied that a payment under this section should be made; and
 - (c) it appears to the Secretary of State that there is likely to be further delay before he receives a statement about the debt in question,
- then, the Secretary of State may, if the applicant so requests or, if the Secretary of State thinks fit, without such a request, make a payment under this section, notwithstanding that no such statement has been received.