



# Employment Protection (Consolidation) Act 1978

## 1978 CHAPTER 44

### PART III

#### MATERNITY

##### *Maternity pay*

#### **40 Payments to employees out of Maternity Pay Fund**

- (1) Where an employee claims that her employer is liable to pay her maternity pay and—
  - (a) that she has taken all reasonable steps (other than proceedings to enforce a tribunal award) to recover payment from the employer ; or
  - (b) that her employer is insolvent (as defined in section 127 for the purposes of sections 122 to 126);

and that the whole or part of the maternity pay remains unpaid, the employee may apply to the Secretary of State under this section.

- (2) If the Secretary of State is satisfied that the claim is well-founded the Secretary of State shall pay the employee out of the Maternity Pay Fund the amount of the maternity pay which appears to the Secretary of State to be unpaid.
- (3) A payment made by the Secretary of State to an employee under this section shall, for the purpose of discharging any liability of the employer to the employee, be treated as if it had been made by the employer.