



# Insolvency Act 1994

## 1994 CHAPTER 7

### **1 Administrators: priority of liabilities under adopted contracts of employment**

- (1) Section 19 of the Insolvency Act 1986 (vacation of office) shall be amended as provided by subsections (2) to (6) below.
- (2) In subsection (3) (which provides for the next two subsections to apply where a person ceases to be administrator) for “next two” there shall be substituted “following”.
- (3) In subsection (5) (which provides for certain debts and liabilities incurred during administration, including those incurred under contracts of employment adopted by the administrator, to be charged on the company’s property in priority to his remuneration and expenses) the words “or contracts of employment adopted” shall be omitted.
- (4) After the first paragraph of that subsection there shall be inserted—
  - “(6) Any sums payable in respect of liabilities incurred, while he was administrator, under contracts of employment adopted by him or a predecessor of his in the carrying out of his or the predecessor’s functions shall, to the extent that the liabilities are qualifying liabilities, be charged on and paid out of any such property as is mentioned in subsection (4) and enjoy the same priority as any sums to which subsection (5) applies.”
- (5) The second paragraph of that subsection (which provides that an administrator is not to be taken to have adopted a contract of employment by reason of any acts or omissions within 14 days after his appointment) shall become the second paragraph of the subsection inserted by subsection (4) above.
- (6) At the end of the section there shall be inserted—
  - “(7) For the purposes of subsection (6), a liability under a contract of employment is a qualifying liability if—
    - (a) it is a liability to pay a sum by way of wages or salary or contribution to an occupational pension scheme, and
    - (b) it is in respect of services rendered wholly or partly after the adoption of the contract.

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*Status: This is the original version (as it was originally enacted).*

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- (8) There shall be disregarded for the purposes of subsection (6) so much of any qualifying liability as represents payment in respect of services rendered before the adoption of the contract.
- (9) For the purposes of subsections (7) and (8)—
- (a) wages or salary payable in respect of a period of holiday or absence from work through sickness or other good cause are deemed to be wages or (as the case may be) salary in respect of services rendered in that period, and
  - (b) a sum payable in lieu of holiday is deemed to be wages or (as the case may be) salary in respect of services rendered in the period by reference to which the holiday entitlement arose.
- (10) In subsection (9)(a), the reference to wages or salary payable in respect of a period of holiday includes any sums which, if they had been paid, would have been treated for the purposes of the enactments relating to social security as earnings in respect of that period.”
- (7) This section shall have effect in relation to contracts of employment adopted on or after 15th March 1994.