



Insolvency Act 1994

1994 CHAPTER 7

3 Receivers (Scotland): extent of personal liability on, and agency in relation to, adopted contracts of employment.

(1) Section 57 of the ^{M1}Insolvency Act 1986 (agency and personal liability of receiver for certain contracts) shall be amended as provided by subsections (2) to (4) below.

(2) After subsection (1) there shall be inserted—

“(1A) Without prejudice to subsection (1), a receiver is deemed to be the agent of the company in relation to any contract of employment adopted by him in the carrying out of his functions.”

(3) In subsection (2) (liability for certain contracts entered into or adopted in carrying out receiver’s functions), after “provides, and” there shall be inserted “, to the extent of any qualifying liability, ”.

(4) After subsection (2) there shall be inserted—

“(2A) For the purposes of subsection (2), 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,
- (b) it is incurred while the receiver is in office, and
- (c) it is in respect of services rendered wholly or partly after the adoption of the contract.

(2B) Where a sum payable in respect of a liability which is a qualifying liability for the purposes of subsection (2) is payable in respect of services rendered partly before and partly after the adoption of the contract, liability under that subsection shall only extend to so much of the sum as is payable in respect of services rendered after the adoption of the contract.

(2C) For the purposes of subsections (2A) and (2B)—

- (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

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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.

(2D) In subsection (2C)(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.”

- (5) This section shall have effect in relation to contracts of employment adopted on or after 15th March 1994.

Marginal Citations

M1 1986 c. 45.

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