



Employment Rights Act 1996

1996 CHAPTER 18

PART XI

REDUNDANCY PAYMENTS ETC.

CHAPTER VI

PAYMENTS BY SECRETARY OF STATE

166 Applications for payments.

- (1) Where an employee claims that his employer is liable to pay to him an employer's payment and either—
 - (a) that the employee has taken all reasonable steps, other than legal proceedings, to recover the payment from the employer and the employer has refused or failed to pay it, or has paid part of it and has refused or failed to pay the balance, or
 - (b) that the employer is insolvent and the whole or part of the payment remains unpaid,the employee may apply to the Secretary of State for a payment under this section.
- (2) In this Part "employer's payment", in relation to an employee, means—
 - (a) a redundancy payment which his employer is liable to pay to him under this Part, or
 - (b) a payment which his employer is, under an agreement in respect of which an order is in force under section 157, liable to make to him on the termination of his contract of employment.
- (3) In relation to any case where (in accordance with any provision of this Part) an industrial tribunal determines that an employer is liable to pay part (but not the whole) of a redundancy payment the reference in subsection (2)(a) to a redundancy payment is to the part of the redundancy payment.

Status: Point in time view as at 02/07/1998. This version of this provision has been superseded.

Changes to legislation: Employment Rights Act 1996, Section 166 is up to date with all changes known to be in force on or before 11 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) In subsection (1)(a) “legal proceedings”—
- (a) does not include any proceedings before an industrial tribunal, but
 - (b) includes any proceedings to enforce a decision or award of an industrial tribunal.
- (5) An employer is insolvent for the purposes of subsection (1)(b)—
- (a) where the employer is an individual, if (but only if) subsection (6) is satisfied, and
 - (b) where the employer is a company, if (but only if) subsection (7) is satisfied.
- (6) This subsection is satisfied in the case of an employer who is an individual—
- (a) in England and Wales if—
 - (i) he has been adjudged bankrupt or has made a composition or arrangement with his creditors, or
 - (ii) he has died and his estate falls to be administered in accordance with an order under section 421 of the ^{M1}Insolvency Act 1986, and
 - (b) in Scotland if—
 - (i) sequestration of his estate has been awarded or he has executed a trust deed for his creditors or has entered into a composition contract, or
 - (ii) he has died and a judicial factor appointed under section 11A of the ^{M2}Judicial Factors (Scotland) Act 1889 is required by that section to divide his insolvent estate among his creditors.
- (7) This subsection is satisfied in the case of an employer which is a company—
- (a) if a winding up order or an administration order has been made, or a resolution for voluntary winding up has been passed, with respect to the company,
 - (b) if a receiver or (in England and Wales only) a manager of the company’s undertaking has been duly appointed, or (in England and Wales only) possession has been taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the company comprised in or subject to the charge, or
 - (c) if a voluntary arrangement proposed in the case of the company for the purposes of Part I of the Insolvency Act 1986 has been approved under that Part of that Act.

Marginal Citations

M1 1986 c. 45.

M2 1889 c. 39.

Status:

Point in time view as at 02/07/1998. This version of this provision has been superseded.

Changes to legislation:

Employment Rights Act 1996, Section 166 is up to date with all changes known to be in force on or before 11 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.