

EMPLOYEE GUIDE TO THE INSOLVENCY PAYMENTS SCHEME

What is the Insolvency Payments Scheme?

The Insolvency Payments Scheme is a scheme to protect **pay-related** entitlements of employees whose employer has become legally insolvent as defined in the Scheme. Under the Scheme, employees may claim - **normally through the Employer Representative (Liquidator/Receiver)** - arrears of pay, holiday pay, pay in lieu of statutory notice and various other entitlements that may be owed to them by their employer. Certain conditions and limits apply to payments under the Scheme.

How will I know my Employer is Insolvent?

An employer is insolvent for the purposes of the Insolvency Payments Scheme if:

- The business is in liquidation
- The business is in receivership
- The employer is legally bankrupt
- The employer has died and the estate is being administered under the relevant legislation
- The employer is insolvent under the legislation of another EU Member State.

If a business shuts down without becoming legally insolvent can I obtain payments under the Scheme?

The Insolvency Payments Scheme does not cover such cases. For an employee to come within the Scheme, an employer must be legally insolvent under the legislation under which the Scheme operates. **If a business shuts down without becoming legally insolvent the employer remains responsible for the payment of employees' pay and other entitlements.**

Do I qualify for payment of entitlements under the Scheme?

The Scheme applies to employees employed in Ireland in employment that is fully insurable for social insurance purposes (this covers most employees) and whose employer is insolvent as defined in the legislation under which the Scheme operates. The Scheme also covers employees who would be fully insurable but for the fact that they have reached 66 years of age.

How can entitlements be claimed?

Claims are made through the person legally appointed to wind up the business (normally the Liquidator or Receiver), who will certify the claims from the records available, and submit them to the Insolvency Payments Section of the Department of Social Protection to be processed. When the claims have been processed, payments are made to the Liquidator, Receiver, etc., who will pay the employees concerned, having made any statutory tax or other deductions.

What entitlements are covered by the Scheme?

Apart from arrears of pay, holiday pay and pay in lieu of statutory notice, the Scheme covers a wide range of entitlements that might be owed to employees by the employer, including awards made to them under employment rights legislation covering such issues as unfair dismissal, discrimination, working time and the minimum wage (subject to certain conditions). Certain unpaid pension scheme and personal retirement savings account (PRSA) contributions are also covered.

Are there any limits to the payments that may be made under the Scheme?

Some limitations and conditions apply to payments made under the Scheme. All entitlements based on pay are limited to a maximum weekly rate which is revised periodically. The current limit is **€600 per week**. There is also a **limit of eight weeks** for arrears of pay, sick pay, holiday pay and pay in lieu of statutory notice. In most cases, the Scheme covers entitlements relating to the **period of eighteen months prior** to the date of the insolvency of the employer or the termination of employment. In the case of an award made to an employee - for example, **an unfair dismissal award – the eighteen-month period** applies to the date of the award. An award may also have a date that is later than the date of insolvency.

Are payments under the Insolvency Payments Scheme taxed?

Payments under the Insolvency Payments Scheme are generally taxable. All statutory deductions are usually made by the Liquidator or Receiver. Queries about tax should be addressed to the Revenue Commissioners.

If my claim is refused, can I appeal?

An employee who has submitted a claim for a payment under the Scheme in relation to arrears of pay, sick pay, holiday pay or outstanding occupational pension scheme or PRSA contributions and whose claim has been refused may appeal the decision to the Employment Appeals Tribunal. An appeal may also be made to the Tribunal if the employee considers that the payment made is less than the amount claimed. **The appeal should be made within six weeks** of the decision being communicated, though the Tribunal may extend the period in certain circumstances.

Who can answer queries about my claim?

The Liquidator or Receiver, who has access to the employer's records and certifies the claim, should be able to answer queries about your claim.

Does a claim under the Insolvency Payments Scheme affect an employee's statutory Redundancy entitlement?

No. The Redundancy Payments Scheme is quite separate from the Insolvency Payments Scheme and does not affect an employee's statutory Redundancy entitlement.