

S.I. No. 682 of 2005

REGULATIONS

entitled

Protection of Employees (Employers' Insolvency) (Forms and Procedure)

Regulations 2005

(PRN.A5/1804)

I, Tony Killeen, Minister of State at the Department of Enterprise, Trade and Employment, in exercise of the powers conferred on me by sections 6, 7 and 16 of the Protection of Employees (Employers' Insolvency) Act 1984 (No. 21 of 1984) and the Labour (Transfer of Departmental Administration and Ministerial Functions) Order 1993 (S.I. No. 18 of 1993) (as adapted by the Enterprise and Employment (Alteration of Name of Department and Title of Minister) Order 1997 (S.I. No. 305 of 1997)) and the Enterprise, Trade and Employment (Delegation of Ministerial Functions) Order 2004 (S.I. No. 809 of 2004), hereby make the following regulations:

1. These Regulations may be cited as the Protection of Employees (Employers' Insolvency) (Forms and Procedure) Regulations 2005.

2. (1) In these Regulations -

“Act” means the Protection of Employees (Employers' Insolvency) Act 1984 (No. 21 of 1984) as amended or extended;

“Department” means the Department of Enterprise, Trade and Employment;

“PRSA” means a Personal Retirement Savings Account within the meaning of the Pensions Act 1990 (No. 25 of 1990).

(2) In these Regulations, unless otherwise indicated -

(a) a reference to any enactment shall be construed as a reference to that enactment as amended by any other enactment,

(b) a reference to a section is to a section of the Act, and

(c) a reference to a Regulation or Schedule is to a Regulation of, or Schedule to, these Regulations.

3. The following forms are prescribed as the forms to be used in respect of applications under the Act:

(a) in the case of an application for payment under section 6 in respect of unpaid normal weekly remuneration, entitlements under a sick pay scheme, holiday pay, payment in respect of the relevant statutory period of minimum notice specified under section 4 of the Minimum Notice and Terms of Employment Act 1973 (No. 4 of 1973) or an award by the Employment Appeals Tribunal under section 12 of that Act, Form EIP1 as set out in Part 1 of the Schedule;

(b) in the case of an application for payment in respect of any other debt to which section 6 applies, Form EIP4 as set out in Part 2 of the Schedule;

- (c) in the case of a statement from a relevant officer under section 6 (6), Form EIP3 as set out in Part 3 of the Schedule;
 - (d) in the case of an application for payment in respect of section 7, Form EIP6 as set out in Part 4 of the Schedule;
 - (e) in the case of a certificate given by an actuary for the purposes of section 7(3), Form EIP 7 as set out in Part 5 of the Schedule.
4. (1) An application under section 6 or 7 of the Act shall be made to a relevant officer or person appointed under section 5 who shall examine it and, as soon as may be, forward it, together with Form EIP3 or Form EIP7, as appropriate, to the Insolvency Payments Section of the Department.
- (2) Where there is not for the time being in relation to such employer a relevant officer, an application may be sent to the Secretary General of the Department.
- (3) Payments in respect of applications under sections 6 and 7 shall be made to the relevant officer or person appointed under section 5 unless there are particular reasons which require that payment be made directly to the applicant.
- (4) Where a payment has been made on foot of an application under section 6 or 7 to a relevant officer or person appointed under section 5, such relevant officer or person shall make the appropriate payment to the applicant and, as soon as may be, shall confirm the payment in writing to the Insolvency Payments Section of the Department.
5. A person shall be deemed to have complied with any requirements under these Regulations to make an application or to prepare a statement in a form prescribed by these Regulations where the application or statement, as the case may be, is made in a form to like effect to the prescribed form concerned.
6. The Protection of Employees (Employers' Insolvency) (Forms and Procedure) Regulations 1984 (S.I. No. 356 of 1984) and the Protection of Employees (Employers' Insolvency) (Occupational Pension Scheme) (Forms and Procedure) Regulations 1990 (S.I. No. 121 of 1990) are revoked.

SCHEDULE

Part 1



An Roinn Fiontar, Trádála agus Fostaíochta
Department of Enterprise, Trade and Employment

INSOLVENCY PAYMENTS SCHEME

PROTECTION OF EMPLOYEES (EMPLOYERS' INSOLVENCY) ACTS 1984-2004

APPLICATION BY EMPLOYEE FOR PAYMENT OF • WAGES • HOLIDAY PAY • MINIMUM NOTICE • SICK PAY

FORM EIP1: GUIDANCE NOTES

1. An employer is regarded as insolvent for the purposes of the Acts if in liquidation, receivership, adjudicated bankrupt, etc.
2. When completed, this Form should be returned to the Relevant Officer (the Liquidator, Receiver, etc.).
3. The maximum period for which arrears are normally payable is 8 weeks. A statutory weekly limit applies to the amount of any entitlement based on pay.
4. Payments made under the Insolvency Payments Scheme are generally subject to Income Tax and Pay-Related Social Insurance deductions. Deductions will be made, where appropriate, by the Relevant Officer.
5. In relation to a claim for overtime, bonus or commission, please give both the actual amount due and average amount, calculated in accordance with Schedule 3 of the Redundancy Payments Act 1967. If rates given in Part 4 and Part 5 of the Form differ, please explain the difference.
6. Deductions for union dues, medical insurance (e.g., VHI, BUPA), etc. which were made from gross wages and not paid to the appropriate body should be inserted in Part 4.
7. In the case of sick pay, payment will not exceed the difference between any social welfare benefit payable and gross weekly pay.

PLEASE NOTE THAT FAILURE TO COMPLETE THE FORM FULLY MAY RESULT IN DELAY IN MAKING A PAYMENT.

Insolvency Payments Section
Department of Enterprise, Trade and Employment
Davitt House
65a Adelaide Road
Dublin 2

Phone: (01) 6312121
Fax: (01) 6313217
Lo-call: 1890 220 222
Web: www.entemp.ie

Part 1 Employee Details

Please complete in Block Capitals.

Employee's PPS No.

Figures								Letters	

Employee's surname

Employee's first name

Employee's address

Employee's date of birth

<input type="text"/>	Day	<input type="text"/>	Month	<input type="text"/>	Year
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Class of Insurance

Please attach copy of P45 if available.

Part 2 Employer Details

Business name of employer

Employer's address

Type of business

Part 3 Employment Details

Occupation

Date of commencement of employment

<input type="text"/>	Day	<input type="text"/>	Month	<input type="text"/>	Year
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Date of termination of employment

<input type="text"/>	Day	<input type="text"/>	Month	<input type="text"/>	Year
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Gross pay

€ <input type="text"/>	Week or	€ <input type="text"/>	Month
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Number of days and hours normally worked per week

<input type="text"/>	Days	<input type="text"/>	Hours
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If you were a Director, Secretary or Shareholder of the Company, please indicate as appropriate.

Director	Secretary	Shareholder

Part 4 Arrears of Wages

If application is for arrears of pay, overtime, bonus or commission payments, please give details in the spaces provided (See Note 5 in Guidance Notes). If application involves dishonoured or "bounced" pay cheques, please attach cheques.

Type (wages, bonus, overtime, etc.)	From			To			Number of weeks/days	Gross weekly pay/bonus/overtime	Amount Due (Actual)
	Day	Month	Year	Day	Month	Year			
								€	€
								€	€
								€	€
								€	€

Average (if required - see Note 5) €

Total arrears of pay claimed €

Deductions from pay

Type (e.g., Union subscription, VHI, BUPA, etc.)	From			To			Number of weeks	Weekly Deduction	Amount Due
	Day	Month	Year	Day	Month	Year			
								€	€
								€	€

Total arrears of deductions claimed €

Part 5 Arrears of Holiday Pay

Claim period for which holidays are owed	From			To			Total number of weeks due (incl. public holidays)
	Day	Month	Year	Day	Month	Year	

Annual leave entitlement Number of days

Annual leave taken in the claim period above Number of days

Public holidays due Number of days

Gross pay € Week/Month (please specify)

Arrears of holiday pay claimed €

Part 6 Minimum Notice

No. of weeks' statutory notice due (or awarded by Employment Appeals Tribunal)*

Gross pay € Week/Month (please specify)

Total amount of minimum notice claimed €

*If claim is in respect of an Employment Appeals Tribunal Award, please attach copy of the Tribunal Award and complete the following:

Date of Employment Appeals Tribunal Award

Day	Month	Year

Reference number of Award

Part 7 Arrears due under a Company Sick Pay Scheme

Period to which claim relates	From			To			Total number of weeks due (incl. public holidays due)
	Day	Month	Year	Day	Month	Year	

Weekly amount of Social Welfare Benefit €

Total amount of Social Welfare Benefit payable during the period €

Weekly payment by employer under sick pay scheme (exclusive of Social Welfare payment) €

Gross pay € Week/Month (please specify)

Total arrears of sick pay claimed €

I apply for payment due to me under the Protection of Employees (Employers' Insolvency) Acts 1984-2004 and declare that I have made no other applications in respect of the amounts shown above. I am aware that my rights and remedies against my employer in respect of these amounts will be transferred to the Minister for Enterprise, Trade and Employment when payment has been made.

I also declare in respect of the amounts claimed above that I have made no appeal in respect of these amounts and I am not aware, to the best of my knowledge, that these amounts are the subject of an appeal by someone else.

Signature: _____ Date: _____

LEGAL PROCEEDINGS MAY BE TAKEN AGAINST ANYONE MAKING A FALSE STATEMENT ON THIS FORM

SCHEDULE

Part 2



An Roinn Fiontar, Trádála agus Fostaíochta
Department of Enterprise, Trade and Employment

INSOLVENCY PAYMENTS SCHEME

PROTECTION OF EMPLOYEES (EMPLOYERS' INSOLVENCY) ACTS 1984-2004

APPLICATION BY A RELEVANT OFFICER FOR FUNDS IN RESPECT OF EMPLOYEE CLAIMS

- Arrears of Wages • Holiday Pay • Sick Pay • Minimum Notice Entitlements/Awards • Unfair Dismissals Act 1997 • Common Law in respect of Unfair or Wrongful Dismissal • Employment Equality Act 1998 • National Minimum Wage Act 2000 • Maternity Protection Act 1994 • Adoptive Leave Act 1995 • Parental Leave Act 1998 • Payment of Wages Act 1991 • Terms of Employment (Information) Act 1994 • Protection of Young Persons (Employment) Act 1996 • Organisation of Working Time Act 1997 • Protections for Persons Reporting Child Abuse Act 1998 • European Communities (Protection of Employment) Regulations 2000 • Protection of Employees (Part-Time Work) Act 2001 • Competition Act 2002 • Protection of Employees (Fixed-Time Work) Act 2003 • European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 • Industrial Relations Acts 1946, 1969 and 1990 (Registered Employment Agreements or Employment Regulation Orders) • Industrial Relations (Miscellaneous Provisions) Act 2004 (concerning victimisation awards).

FORM EIP3: GUIDANCE NOTES

1. When making an initial claim to the Insolvency Payments Section on behalf of the former employees of an insolvent employer, please attach copies of the following documentation:

- (a) Notice of appointment of Liquidator/Receiver
- (b) Statement of Affairs/Accounts

2. Initial claims for each employer should be accompanied by a copy of the employer's P45 or written confirmation of his/her class of insurance.

PLEASE NOTE THAT FAILURE TO COMPLETE THE FORM FULLY MAY RESULT IN DELAY IN MAKING THE PAYMENT.

DETAILS OF INSOLVENT EMPLOYER

Employer's PAYE registered No.

Business name of employer

Business address

Nature of business

Names of Directors and Company Secretary	PPS No.								% Shareholding
	Figures				Letters				

Date of insolvency Day Month Year

Type of insolvency

RELEVANT OFFICER CERTIFICATE

Name of Relevant Officer

Name of company

Business address

Telephone No.

Relevant Officer Tax No.

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Please attach a schedule of employee entitlements. The Annex attached shows the format required. Please ensure that your schedule is clearly headed by the company name and PAYE No.

Number of pages of Annex attached

Declaration

To the Minister for Enterprise, Trade and Employment:

In connection with the provisions of the Protection of Employees (Employers' Insolvency) Acts 1984-2004, I have accepted and certify, based on the best information available to me, the entitlement of the employees as shown on the attached schedule. I have made no other application in respect of these entitlements. I understand that it may be necessary for you to refer information on the entitlements to the Revenue Commissioners and/or to other Government Departments. I hereby give my consent to the disclosure of such information as is in my possession. I also agree to make available to you such records as may be required for examination. I undertake to distribute the appropriate amounts to the employees concerned from the funds received pursuant to this application. Copies of employee claims are on the relevant forms are attached.

I declare that the company is insolvent and that there are no funds available from which the entitlements claimed on the attached schedule can be paid.

The Instrument of payment should be drawn in favour of (Relevant Officer)

Address

Signature of Relevant Officer

Date

Insolvency Payments Section Department of Enterprise, Trade and Employment Davitt House 65a Adelaide Road Dublin 2	Phone: (01) 6312121 Fax: (01) 6313217 Lo-call: 1890 220 222 Web: www.entemp.ie
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Business Name
of Employer

PAYE No.

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Employee's Name (a)	PPS No. (b)	Total Arrears of Wages (c)	Deductions (Union dues, VHI/BUPA, etc.) (d)	Total Arrears of Holiday Pay (e)	Total Arrears of Sick Pay (f)	Total Minimum Notice (g)	Award under other legislation covered by the Scheme (h)	Total of Columns (c) to (h)
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								
11.								
12.								
13.								

Total

€	
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SCHEDULE

Part 3



An Roinn Fiontar, Trádála agus Fostaíochta
Department of Enterprise, Trade and Employment

INSOLVENCY PAYMENTS SCHEME

PROTECTION OF EMPLOYEES (EMPLOYERS' INSOLVENCY) ACTS 1984-2004

APPLICATION BY EMPLOYEE FOR PAYMENT UNDER THE INSOLVENCY PAYMENTS SCHEME FOR ENTITLEMENTS DUE UNDER:

• **Unfair Dismissals Act 1997** • **Common Law in respect of Unfair or Wrongful Dismissal** • **Employment Equality Act 1998** • **National Minimum Wage Act 2000** • **Maternity Protection Act 1994** • **Adoptive Leave Act 1995** • **Parental Leave Act 1998** • **Payment of Wages Act 1991** • **Terms of Employment (Information) Act 1994** • **Protection of Young Persons (Employment) Act 1996** • **Organisation of Working Time Act 1997** • **Protections for Persons Reporting Child Abuse Act 1998** • **European Communities (Protection of Employment) Regulations 2000** • **Protection of Employees (Part-Time Work) Act 2001** • **Competition Act 2002** • **Protection of Employees (Fixed-Time Work) Act 2003** • **European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003** • **Industrial Relations Acts 1946, 1969 and 1990 (Registered Employment Agreements or Employment Regulation Orders)** • **Industrial Relations (Miscellaneous Provisions) Act 2004 (concerning victimisation awards)**

FORM EIP4: GUIDANCE NOTES

1. An employer is regarded as insolvent for the purposes of the Acts if in Liquidation, Receivership, adjudicated bankrupt, etc.
2. When completed, this Form should be returned to the Relevant Officer (the Receiver, Liquidator, etc).
3. A copy of the relevant supporting document, e.g., Determination, Order, Decision, etc., should be enclosed with this form when submitting a claim.
4. In completing Part 5 of this Form, please note the following:
 - **Employment Regulation Order** - A claim under this part is payable only where proceedings have been instituted against the employer under Section 45(1) of the Industrial Relations Act 1946 for the amount concerned.
 - **Registered Employment Agreement** - A claim under this part is payable only where proceedings have been instituted against the employer under Section 54(1) of the Industrial Relations Act 1990 for the amount concerned, or the Labour Court has made an order under Section 32(1)(b) of the Industrial Relations Act 1946 or Section 10(1)(b) of the Industrial Relations Act 1969.
 - **National Minimum Wage** - A claim under this part is only payable where proceedings have been instituted against the employer under Section 35 of the National Minimum Wage Act 2000 for the amount concerned or a Rights Commissioner has made a decision under Section 26 of National Minimum Wage Act 2000, or the Labour Court has made a determination under Section 29 National Minimum Wage Act 2000.

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Department of Enterprise, Trade and Employment
Davitt House
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Dublin 2

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Lo-call: 1890 220 222
Web: www.entemp.ie

Part 1 Employee Details

Please complete in Block Capitals

Employee's PPS No.

Figures								Letters	

Employee's surname

Employee's first name

Employee's address

Employee's date of birth

<input type="text"/>	Day	<input type="text"/>	Month	<input type="text"/>	Year
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Class of insurance

Please attach copy of P45 if available

Part 2 Employer Details

Business name of employer

Employer's address

Type of business

Part 3 Employment Details

Occupation

Date of commencement of employment

<input type="text"/>	Day	<input type="text"/>	Month	<input type="text"/>	Year
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Date of termination of employment

<input type="text"/>	Day	<input type="text"/>	Month	<input type="text"/>	Year
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Gross pay

€ <input type="text"/>	Week or	€ <input type="text"/>	Month
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No. of days and hours normally worked per week

<input type="text"/>	Days	<input type="text"/>	Hours
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If you were a Director, Secretary or Shareholder of the Company, please indicate as appropriate.

Director	Secretary	Shareholder

Part 4 Claims for Entitlements awarded under Other Acts

Please tick appropriate box and attach copy of award, decision, etc.

- Unfair Dismissals Act 1977 or Court Award in respect of Unfair or Wrongful Dismissal
- Employment Equality Act 1998
- Maternity Protection Act 1994
- Adoptive Leave Act 1995
- Parental Leave Act 1998
- Payment of Wages Act 1991*
- Terms of Employment (Information) Act 1994*
- Protection of Young Persons (Employment) Act 1996*
- Organisation of Working Time Act 1997*
- Protections for Persons Reporting Child Abuse Act 1998*
- European Communities (Protection of Employment) Regulations 2000*
- Protection of Employees (Part-Time Work) Act 2001*
- Competition Act 2002*
- Protection of Employees (Fixed-Time Work) Act 2003*
- European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003*
- Industrial Relations (Miscellaneous Provisions Act) 2004*

Type of Award (e.g., decision/determination)	Date of Award			Amount	Reference Number of Award, etc.	Has an appeal been lodged? Yes/No
	Day	Month	Year			
				€		

*Applies to insolvencies occurring from 8 October 2005

Part 5 Statutory Minimum Wage under an Employment Regulation Order, Registered Employment Agreement* or Minimum Wage under the National Minimum Wage Act 2000

Before completing this Section, see Note 4 of Guidance Notes

Please tick appropriate box and attach copy of award, decision, etc.

Employment Regulation Order

Registered Employment Agreement

National Minimum Wage Act 2000

Title of Employment Regulation Order/Registered Employment Agreement (where applicable)

If claim relates to an decision of a Rights Commissioner or a determination/order of the Labour Court, please give reference number

or
If proceedings have been instituted against the employer, please give details.

Period in respect of which the claim is being made	From			To		
	Day	Month	Year	Day	Month	Year

Total number of weeks

Gross weekly pay €

Total claimed €

*Applies to insolvencies occurring from 8 October 2005

I apply for payment due to me under the Protection of Employees (Employers' Insolvency) Acts 1984-2004) and declare that I have made no other applications in respect of the amounts shown above. I am aware that my rights and remedies against my employer in respect of these amounts will be transferred to the Minister for Enterprise, Trade and Employment when payment has been made. I also declare in respect of the amounts claimed above that I have made no appeal in respect of these amounts and I am not aware, to the best of my knowledge, that these amounts are the subject of appeal by someone else.

Signature: _____ **Date:** _____

LEGAL PROCEEDINGS MAY BE TAKEN AGAINST ANYONE MAKING A FALSE STATEMENT ON THIS FORM

SCHEDULE

Part 4



An Roinn Fiontar, Trádála agus Fostaíochta
Department of Enterprise, Trade and Employment

INSOLVENCY PAYMENTS SCHEME

PROTECTION OF EMPLOYEES (EMPLOYERS' INSOLVENCY) ACTS 1984-2004

APPLICATION FOR PAYMENT OF UNPAID CONTRIBUTIONS TO OCCUPATIONAL PENSION SCHEME OR PERSONAL SAVINGS RETIREMENT ACCOUNT (PRSA)

FORM EIP6: GUIDANCE NOTES

1. Part 1 of this form and the Schedule should be completed by a trustee, administrator or other person competent to act on behalf of the occupational pension scheme or PRSA provider, as appropriate.
2. Part 2 of this form should be completed by the Relevant Officer (liquidator, receiver, etc.). A breakdown of the unpaid contributions in respect of the 12 months prior to the date of insolvency should be attached.
3. Where a claim is being made for unpaid contributions payable on an employer's own account, an actuarial certificate, Form EIP7, should be obtained by the Relevant Officer and attached to the claim.
4. Details of the occupational pension scheme (e.g., a Trust Deed, Deed of Adherence) or PRSA should accompany this application if not already forwarded.
5. The date of insolvency for the purpose of payments under the Insolvency Payments Scheme is defined in Section 4 of the Protection of Employees (Employers' Insolvency) Acts 1984-2004.

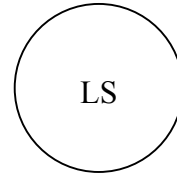
Insolvency Payments Section
Department of Enterprise, Trade and Employment
Davitt House
65a Adelaide Road
Dublin 2

Tel: (01) 6312121
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Lo-call: 1890 220 222
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LEGAL PROCEEDINGS MAY BE TAKEN AGAINST ANYONE MAKING A FALSE STATEMENT ON THIS FORM

SCHEDULE

Part 5



GIVEN under my hand,

2nd November, 2005,

Tony Killeen
Minister of State at the
Department of Enterprise,
Trade and Employment

Explanatory Note

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of these Regulations is to prescribe revised forms and certificates to be used in relation to claims under Section 6 and Section 7 of the Protection of Employees (Employers' Insolvency) Act 1984.

Copies of these Regulations may be purchased from the Government Publications Sales Office, Sun Alliance House, Molesworth Street, Dublin 2, or through any bookseller.

Price €4.06