
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART XII

REDUNDANCY PAYMENTS ETC.

CHAPTER VI

PAYMENTS BY DEPARTMENT

Applications for payments

201.—(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 Department for a payment under this Article.

(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 Article 192, 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 paragraph (2)(a) to a redundancy payment is to the part of the redundancy payment.

(4) In paragraph (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 paragraph (1)(b)—

- (a) where the employer is an individual, if (but only if) paragraph (6) is satisfied, and
- (b) where the employer is a company, if (but only if) paragraph (7) is satisfied.

(6) This paragraph is satisfied in the case of an employer who is an individual if—

- (a) he has been adjudged bankrupt or has made a composition or arrangement with his creditors, or
- (b) he has died and his estate falls to be administered in accordance with an order under Article 365 of the Insolvency (Northern Ireland) Order 1989.

(7) This paragraph 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 a manager of the company's undertaking has been duly appointed, or 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 II of the Insolvency (Northern Ireland) Order 1989 has been approved under that Part.