

## **LABOUR RELATIONS AGENCY - INFORMATION FOR CLAIMANTS**

**HAVE YOU LOST YOUR JOB?**

**IS YOUR EMPLOYER EXPERIENCING FINANCIAL DIFFICULTIES?**

**HAS THIS RESULTED IN YOU NOT RECEIVING PAYMENTS OWED E.G.  
NOTICE/REDUNDANCY PAY, WAGES?**

**ARE YOU UNSURE OF WHAT YOU SHOULD DO NEXT?**

**If you have answered yes to any or all of the above then please read on as the following information may help you to determine how best to secure the payments you feel you are owed.**

Employers may find themselves unable to make payments owed to employees for a variety of reasons. Employees wishing to secure such payments need to determine why the employer has failed to make the payments owed.

As a first step you should write to your employer seeking the payments owed and depending on the status of the company you will either need to submit a claim to the Redundancy Payments Service (RPS) or the Office of the Industrial Tribunals and Fair Employment Tribunal. In some circumstances individuals will submit claims to both organisations as an added protection.

The general rule is that if your employer is legally insolvent you claim the monies owed from RPS by completing an RP1 form which can be obtained from the person/company overseeing the insolvency (may be called an Administrator or Liquidator). You can also print the form via the following link here: <https://www.economy-ni.gov.uk/publications/redundancy-payment-application-form-rp1>

If your employer is not legally insolvent you will need to lodge proceedings with the Industrial Tribunal on an ET1 form and this can be completed on-line at [www.employmenttribunalsni.co.uk](http://www.employmenttribunalsni.co.uk) or alternatively you can contact the tribunal office requesting a form on (028) 9032 7666.

Where you are unsure of your employer's trading status you may wish to submit both claim forms. This could protect the redundancy pay element of your claim where your employer is deemed not to be legally insolvent as RPS is not able to make payments in these circumstances. They may however pay the redundancy element if you receive an Industrial Tribunal judgement declaring that you are entitled to a redundancy payment. Please note that there are time limits for making claims to an industrial tribunal and/or the RPS. Further information can be obtained from RPS or the Labour Relations Agency's enquiry point (see page 3 and 6 for contact details).

Further details on insolvency which may help you clarify what you need to do can be found at Appendix 1 along with contact details for the relevant organisations.

### **How can I work out what I am owed?**

If you are submitting a claim to the Redundancy Payments Service or your case proceeds to a tribunal hearing there is certain information you may find of use to support your claim and/or to work out what you may be owed. Payments owed may fall under some or all of the following headings:

#### **(a) Redundancy Payment**

In order to qualify for this you must have completed a minimum of 2 complete years of service with your employer. A redundancy payment is worked out by determining your age and the number of complete years of service you had on the date your employment ended. This will determine the number of weeks of statutory redundancy pay you are entitled to. The current limit on a week's pay for statutory redundancy purposes is £547 (from April 2019). A ready reckoner is enclosed at Appendix 2 to help you to calculate this payment.

#### **(b) Notice Pay**

All employees are entitled to a minimum period of notice of termination of employment as follows:

- between one month – two years' service **1 week**
- two years plus **1 week for each year  
(maximum of 12)**

Employees may be entitled to a longer period of notice if this is provided for in the contract of employment. When making an award for notice pay the Industrial Tribunal will deduct any income or benefits you received during the notice period.

#### **(c) Holiday Pay**

Most workers, whether full-time or part-time, are entitled to 5.6 weeks paid annual leave per year. If a worker is employed for 5 days per week their entitlement would be 28 days and if they were employed for 3 days per week the entitlement would be 16.8 days. The 5.6 weeks can include a worker's entitlement to statutory/bank holidays. If a worker's employment ends he/she has a right to be paid for the leave time due but not taken. To calculate this you will need to ascertain when your holiday year began, the number of days leave taken during that year, the number of days due and whether these included or excluded statutory/bank holidays. There is a holiday pay calculator available on the NI Direct website – [www.nidirect.gov.uk](http://www.nidirect.gov.uk) . Holiday pay is subject to tax and national insurance deductions.

#### **(d) Unpaid Wages**

Employees and workers are usually paid on a weekly or monthly basis. Nonpayment of wages due for hours worked that have not been reimbursed are commonly referred to as an unlawful deduction from wages. As with holiday pay such amounts are subject to tax and national insurance deductions.

#### **(e) Redundancy Consultation – Protective Award**

If your employer made more than 20 people redundant they are under a duty to consult for set time periods and failure to do so could lead to a protective award being made by the tribunal. For further information on this please refer to our website [www.lra.org.uk](http://www.lra.org.uk).

#### **(f) Basic Award for Unfair Dismissal**

If the industrial tribunal upholds a claim for unfair dismissal the redundancy payments service may pay the basic award element of the compensation awarded to you.

There is no guarantee that all debts and claims you make can be paid in full. There are special arrangements to make sure you receive a basic minimum of the debts owed from the National Insurance Fund.

Further and more detailed information is available from the NI Direct Website which can be found at: <https://www.nidirect.gov.uk/information-and-services/employment>.

#### **What information will I need to provide?**

In order to support any claim you are making (or to calculate any of the above) you will need supporting information which could include but is not limited to:

- Contract of Employment or Statement of Main Terms & Conditions of Employment.
- Confirmation of your start date
- Evidence of your date of birth and national insurance number □ Timesheets.
- Payslips.
- P60/P45.
- Annual Leave card.

#### **Who do I contact in the Labour Relations Agency if I have any further queries?**

If you require general advice on the above you may wish to speak to our **Workplace Information Service** by dialling 03300 555 300

If you have already submitted a tribunal claim you should speak to one of our **Conciliation Officers** by dialling 03300 552 220 and ask to speak with the Duty Officer.

#### **Other Available Assistance**

##### **General Advice and Information:**

The NI Direct website provides a wide range of guidance and information on what your rights are when your employer is insolvent. The website can be accessed by clicking on the following link <https://www.nidirect.gov.uk/articles/your-rights-if-youremployer-insolvent>.

##### **Legal Advice and Assistance: The green form scheme**

Legal aid allows people with a low income to get free legal advice and assistance from a solicitor or other organisation. The scheme enables people to get help from a solicitor free of charge, or for a contribution, for up to 2 hours work.

More detailed information can be found on the NI Direct website website which can be found at <https://www.nidirect.gov.uk/articles/legal-aid-schemes>

## **How will I know if my employer is legally insolvent or not?**

There are different names for different types of insolvency and for the people who handle them. If your employer is a company, or a limited liability partnership, insolvency means one of the following:

- Administration
- Liquidation
- Receivership
- Voluntary arrangement with creditors

If your employer is an individual, insolvency means one of the following:

- Bankruptcy
- Voluntary arrangement with creditors

It is not insolvency if your employer simply stops trading (without one of the above happening) or a company is struck off the register of companies (also referred to as dissolved).

Usually someone called an 'Insolvency Practitioner' or 'Official Receiver' is appointed to deal with the insolvency. They will be in charge of the case and could act in one of the following capacities:

- Administrator, Liquidator, Receiver, Supervisor (of a voluntary arrangement), Trustee (in bankruptcy)

If the business you worked for has closed you will need to find out if your employer is insolvent or just in difficulty. Companies House Northern Ireland holds trading details on its register of companies and the status of companies registered can be checked online at <https://www.gov.uk/government/organisations/companies-house>. You can also get information on people who are declared bankrupt from the Insolvency Service. Contact details for both organisations can be found below.

**Companies House**  
32-38 Linenhall Street  
Belfast  
BT2 8BG

Tel: 0303 1234 500

E: [enquiries@companies-house.gov.uk](mailto:enquiries@companies-house.gov.uk)

**Insolvency Service**  
Department for the Economy  
Fermanagh House  
Ormeau Avenue  
Belfast BT2 8NJ

Tel: 028 9025 1441

E: [insolvency@economy-ni.gov.uk](mailto:insolvency@economy-ni.gov.uk)

## **My employer is legally insolvent – what do I do now?**

You can claim for all your outstanding payments from the Insolvency Practitioner. There is no guarantee that the full amount you are owed will be paid as this depends on whether enough funds are raised from the sale of your employer's assets.

There are special arrangements for employees to claim the basic minimum of debts owed to them from the National Insurance Fund. These claims are:

- redundancy
- wages - up to a maximum of eight weeks
- holiday pay - up to a maximum of six weeks
- compensatory notice pay - one week after one calendar month's service rising to one week per year of service up to a maximum of 12 weeks (new earnings will be taken into account)
- basic award for unfair dismissal
- protective award
- unpaid pension contributions

Please note that the current limit for a week's pay is £547 (from April 2019).

### **How do I go about claiming if my employer is legally insolvent?**

If your former employer is legally insolvent and money is owed to you for items such as outstanding wages, holiday pay, notice pay, redundancy pay etc, then the Department for the Economy has powers to make some of these payments and there may be no need for your case to proceed to a tribunal hearing. Such payments are made by the Redundancy Payments Service.

To apply for these payments you should first register the debt with the employer's appointed insolvency practitioner and apply to this person for payment. They will provide you with the necessary form (RP1) for you to complete and return to them or they will ask you to send it to the Redundancy Payments Services at the address below. You should do this as soon as possible.

#### **Redundancy Payments Services**

Room 203  
Adelaide House  
39-49 Adelaide Street  
Belfast  
BT2 8FD

Helpline Number: **0800 585 811**

### **What should I do if my employer is not legally insolvent?**

If you are owed a statutory redundancy payment and your former employer is not legally insolvent or refuses to make payment you should lodge/proceed with a claim to the Industrial Tribunal. If a decision is issued by the Tribunal in your favour the Redundancy Payments Service has the power to pay the redundancy element of that decision. Other payments such as holiday pay, notice pay or arrears of pay cannot be made by RPS where your former employer is not legally insolvent.

#### **Office of the Industrial Tribunal & Fair Employment Tribunal**

Killymeal House  
2 Cromac Quay  
Belfast BT7 2JD

Telephone: **028 9032 7666**

## Appendix 2

Age	Service (Years)																		
	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
18*	1	1 ½																	
19	1	1 ½	2																
20	1	1 ½	2	2 ½															
21	1	1 ½	2	2 ½	3														
22	1	1 ½	2	2 ½	3	3 ½													
23	1 ½	2	2 ½	3	3 ½	4	4 ½												
24	2	2 ½	3	3 ½	4	4 ½	5	5 ½											
25	2	3	3 ½	4	4 ½	5	5 ½	6	6 ½										
26	2	3	4	4 ½	5	5 ½	6	6 ½	7	7 ½									
27	2	3	4	5	5 ½	6	6 ½	7	7 ½	8	8 ½								
28	2	3	4	5	6	6 ½	7	7 ½	8	8 ½	9	9 ½							
29	2	3	4	5	6	7	7 ½	8	8 ½	9	9 ½	10	10 ½						
30	2	3	4	5	6	7	8	8 ½	9	9 ½	10	10 ½	11	11 ½					
31	2	3	4	5	6	7	8	9	9 ½	10	10 ½	11	11 ½	12	12 ½				
32	2	3	4	5	6	7	8	9	10	10 ½	11	11 ½	12	12 ½	13	13 ½			
33	2	3	4	5	6	7	8	9	10	11	11 ½	12	12 ½	13	13 ½	14	14 ½		
34	2	3	4	5	6	7	8	9	10	11	12	12 ½	13	13 ½	14	14 ½	15	15 ½	
35	2	3	4	5	6	7	8	9	10	11	12	13	13 ½	14	14 ½	15	15 ½	16	16 ½
36	2	3	4	5	6	7	8	9	10	11	12	13	14	14 ½	15	15 ½	16	16 ½	17
37	2	3	4	5	6	7	8	9	10	11	12	13	14	15	15 ½	16	16 ½	17	17 ½
38	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	16 ½	17	17 ½	18
39	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	17 ½	18	18 ½
40	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	18 ½	19
41	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	19 ½
42	2 ½	3 ½	4 ½	5 ½	6 ½	7 ½	8 ½	9 ½	10 ½	11 ½	12 ½	13 ½	14 ½	15 ½	16 ½	17 ½	18 ½	19 ½	20 ½
43	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
44	3	4 ½	5 ½	6 ½	7 ½	8 ½	9 ½	10 ½	11 ½	12 ½	13 ½	14 ½	15 ½	16 ½	17 ½	18 ½	19 ½	20 ½	21 ½
45	3	4 ½	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
46	3	4 ½	6	7 ½	8 ½	9 ½	10 ½	11 ½	12 ½	13 ½	14 ½	15 ½	16 ½	17 ½	18 ½	19 ½	20 ½	21 ½	22 ½
47	3	4 ½	6	7 ½	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
48	3	4 ½	6	7 ½	9	10 ½	11 ½	12 ½	13 ½	14 ½	15 ½	16 ½	17 ½	18 ½	19 ½	20 ½	21 ½	22 ½	23 ½
49	3	4 ½	6	7 ½	9	10 ½	12	13	14	15	16	17	18	19	20	21	22	23	24
50	3	4 ½	6	7 ½	9	10 ½	12	13 ½	14 ½	15 ½	16 ½	17 ½	18 ½	19 ½	20 ½	21 ½	22 ½	23 ½	24 ½
51	3	4 ½	6	7 ½	9	10 ½	12	13 ½	15	16	17	18	19	20	21	22	23	24	25
52	3	4 ½	6	7 ½	9	10 ½	12	13 ½	15	16 ½	17 ½	18 ½	19 ½	20 ½	21 ½	22 ½	23 ½	24 ½	25 ½
53	3	4 ½	6	7 ½	9	10 ½	12	13 ½	15	16 ½	18	19	20	21	22	23	24	25	26
54	3	4 ½	6	7 ½	9	10 ½	12	13 ½	15	16 ½	18	19 ½	20 ½	21 ½	22 ½	23 ½	24 ½	25 ½	26 ½
55	3	4 ½	6	7 ½	9	10 ½	12	13 ½	15	16 ½	18	19 ½	21	22	23	24	25	26	27
56	3	4 ½	6	7 ½	9	10 ½	12	13 ½	15	16 ½	18	19 ½	21	22 ½	23 ½	24 ½	25 ½	26 ½	27 ½
57	3	4 ½	6	7 ½	9	10 ½	12	13 ½	15	16 ½	18	19 ½	21	22 ½	24	25	26	27	28

58	3	4 ½	6	7 ½	9	10 ½	12	13 ½	15	16 ½	18	19 ½	21	22 ½	24	25 ½	26 ½	27 ½	28 ½
59	3	4 ½	6	7 ½	9	10 ½	12	13 ½	15	16 ½	18	19 ½	21	22 ½	24	25 ½	27	28	29
60	3	4 ½	6	7 ½	9	10 ½	12	13 ½	15	16 ½	18	19 ½	21	22 ½	24	25 ½	27	28 ½	29 ½
61**	3	4 ½	6	7 ½	9	10 ½	12	13 ½	15	16 ½	18	19 ½	21	22 ½	24	25 ½	27	28 ½	30

18\* - it is possible that an individual could start to build up continuous service before age 16, but this is likely to be rare, and therefore we have started from age 18.

61\*\* - The same figures should be used when calculating the redundancy payment for a person aged 61 and above.

Text revised Feb 18