

S.I. No. 197/2003 - Protection of Employees (Employers' Insolvency) (Forms and Procedure) (Amendment) Regulations 2003

I, FRANK FAHEY, Minister of State at the Department of Enterprise, Trade and Employment in exercise of the powers conferred on me by [sections 6 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 2003 ([S.I. No. 156 of 2003](#)), hereby make the following regulations:

1. (1) These Regulations may be cited as the Protection of Employees (Employers' Insolvency) (Forms and Procedure) (Amendment) Regulations 2003.

(2) These Regulations shall come into operation on 25 May 2003.

2. (1) In these Regulations —

“Act” means the [Protection of Employees \(Employers' Insolvency\) Act 1984](#) (No. 21 of 1984);

“Principal Regulations” means the Protection of Employees (Employers' Insolvency) (Forms and Procedure) Regulations 1984 ([S.I. No. 356 of 1984](#)).

(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, and

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

3. The Principal Regulations are amended by —

(a) substituting the following for Regulation 3:

“3. The following forms are prescribed as the forms to be used as regards applications under section 6 of the Act:

(a) in the case of an application for payment in respect of unpaid normal weekly remuneration, entitlements under a sick pay scheme, holiday pay or payment in respect of the period of minimum notice specified under [section 4](#) of the [Minimum Notice and Terms of Employment Act 1973](#) (No. 4 of 1973), the form (EIP1) set out in Part 1 of the Schedule to these Regulations,

and

(b) in the case of an application for payment in respect of any other case to which

section 6 of the Act applies, the form (EIP4) set out in Part 2 of the Schedule to these Regulations.”,

and

- (b) substituting the matter in the Schedule for the matter in the Schedule to the Principal Regulations.

SCHEDULE

PART 1

Form EIP1

Department of

Enterprise, Trade

and Employment

EMPLOYEE'S APPLICATION FOR PAYMENT(S) OF WAGES, HOLIDAY PAY, MINIMUM NOTICE AND SICK PAY UNDER THE INSOLVENCY PAYMENTS SCHEME

An Roinn Fiontar, Trádála agus Fostaíochta

Department of Enterprise, Trade and Employment

Protection of Employees (Employers' Insolvency) Acts, 1984-2003

NOTE: PLEASE READ NOTES BELOW BEFORE COMPLETING THIS FORM

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.
3. The Relevant Officer is the person appointed in connection with an employer's Insolvency (e.g., Receiver, Liquidator, etc.).
4. The maximum period for which arrears are normally payable is 8 weeks. However, for the purposes of calculating arrears, a statutory ceiling on gross weekly wages is applied.

The current ceiling is €507.90 per week.

5. Gross amounts are paid under the Scheme and are subject to Income Tax and PRSI. Deductions for Income Tax, Pay-Related Social Insurance and Occupational Pension Scheme contributions, etc., will be made by the Relevant Officer from payments due to the employees where appropriate.
6. 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 differ, please explain.

7. Deductions for union dues, VHI/BUPA, etc. which were made from gross wages and not paid over to the appropriate authority should be inserted in Part 4.
8. In the case of sick pay, payment will not exceed the difference between any social welfare benefit payable and gross weekly pay.
9. **PLEASE NOTE THAT FAILURE TO COMPLETE THE FORM FULLY MAY RESULT IN DELAY IN MAKING THE PAYMENT**

Department of Enterprise, Trade and Employment

Tel: (01) 6312121

Davitt House

Fax: (01) 6313217

65a Adelaide Road

Web: www.entemp.ie

Dublin 2

Lo-call 1890 220222

Part 1 Your Details

(Please complete in Block Capitals)

Figures

Letters

Employee's PPS No.

Employee's Surname

Employee's First name

Employee's Address

Date of Birth

Day

Month

Year

Class of Insurance

*Please attach copy of P45 if
available*

Part 2 *Employer Details*

Name of Employer

Employer's Address

Type of Business(e.g., clothing

manufacturer)

Name of Receiver/Liquidator/Employer Representative

Telephone No. (Including area code)

Part 3 Employment Details

Occupation

Date of Commencement of employment Day Month Year

Date of Termination of employment Day Month Year

Gross Pay € Week € Month

or

**No. of days and hours
normally worked per week**

Days

Hours

Director

Secretary

Shareholder

**If you were a Director,
Secretary or Shareholder of
the Company, please
indicate as appropriate**

Part 4 Arrears of Wages Pay

If you are owed wages, overtime, bonus or commission payments, give details in the spaces provided.

If wages claim includes "bounced" cheques, please attach cheques. In relation to overtime and commission, please see Note 6.

Type	From	To	No. of weeks/days	Gross weekly wage	Amount Due
(wages, bonus, etc.)	Day Mth Year	Day Mth Year			(Actual)
				€	€
				€	€
				€	€
				€	€

Average (if required) (See Note 6) €

Total Arrears of Wages Claimed €

Deductions from Wages, e.g., Union Dues, VHI/BUPA, etc.

Type	From	To	No. of weeks	Weekly	Amount Due
------	------	----	--------------	--------	------------

						Deduction	
Day	Mth	Year	Day	Mth	Year		
						€	€
						€	€
						€	€
						€	€

Total Arrears of Deductions Claimed €

Part 5 Arrears of Holiday Pay

						From	To	Total no of weeks due (incl. public holidays due)
Day	Mth	Year	Day	Mth	Year	Day	Mth	

Annual Leave Entitlement No. of days

Annual Leave Taken No. of days

Public Holidays Due

No. of days

Gross Weekly Pay €

Arrears of Holiday Pay Claimed €

Part 6 Minimum Notice

No. of Weeks' Notice Due/Awarded

Gross Weekly Pay €

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:

Day Month Year

Date of Employment Appeals Tribunal Award

Reference Number of Award

Part 7 Arrears due under a Company Sick Pay Scheme

From			To			Total no. of weeks due (incl. any public hols. due)
Day	Mth	Year	Day	Mth	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 payments) €

Gross Weekly Pay €

Total Arrears of Sick €
Pay Claimed

I apply for payment due to me under the Protection of Employees (Employers' Insolvency) Acts 1984-2003 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: _____

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

PART 2

Form EIP4

Department of
Enterprise, Trade
and Employment

EMPLOYEE'S APPLICATION FOR PAYMENT(S) UNDER THE INSOLVENCY PAYMENTS SCHEME OF ENTITLEMENTS UNDER THE EMPLOYMENT EQUALITY ACT, 1998, UNFAIR DISMISSALS ACT, 1977 COURT AWARDS IN RESPECT OF UNFAIR OR WRONGFUL DISMISSAL, MATERNITY PROTECTION ACT, 1994, ADOPTIVE LEAVE ACT, 1995 PARENTAL LEAVE ACT, 1998, NATIONAL MINIMUM WAGE ACT, 2000 AND STATUTORY MINIMUM WAGES UNDER AN EMPLOYMENT REGULATION ORDER

An Roinn Fiontar, Trádála agus Fostaíochta

Department of Enterprise, Trade and Employment

Protection of Employees (Employers' Insolvency) Acts, 1984-2003

NOTE: PLEASE READ NOTES BELOW BEFORE COMPLETING THIS FORM

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 Relevant Officer is the person appointed in connection with an employer's insolvency (e.g., Receiver, Liquidator, etc).
3. A separate Form EIP1 should be completed where payment is being claimed in respect of Arrears of Wages, Sick Pay, Holiday Pay or Minimum Notice.
4. Claims in respect of statutory minimum wages can only be made in respect of employments covered by an Employment Regulation Order. In case of doubt about the application of an Employment Regulation Order, claimants should contact the Labour Inspectorate Section of this Department.
5. Please attach a copy of the Recommendation, Determination or Order as appropriate, if available.
6. **PLEASE NOTE THAT FAILURE TO COMPLETE THE FORM FULLY MAY RESULT IN DELAY IN MAKING THE PAYMENT.**

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Dublin 2

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Part 1 Your Details

(Please complete in Block Capitals)

Figures

Letters

Employee's PPS No.

Employee's Surname

Employee's First name

Employee's Address

Date of Birth

Day

Month

Year

Class of Insurance

*Please attach copy of P45 if
available*

Part 2 Employer Details

Name of Employer

Employer's Address

Type of Business(e.g., clothing manufacturer)

Name of Receiver/Liquidator/Employer Representative

Telephone No. (Including area code)

Part 3 Employment Details

Occupation

Date of Commencement of employment	Day	Month	Year
---	-----	-------	------

Date of Termination of employment	Day	Month	Year
--	-----	-------	------

Gross Pay € Week € Month

or

No. of days and hours normally worked per week Days Hours

Director

Secretary

Shareholder

If you were a Director, Secretary or Shareholder of the Company, please indicate as appropriate

Part 4 *Employment Equality Act, 1998*

	Date					Has an appeal been lodged?
	Day	Mth	Year	Amount	Reference No.	Yes/No
Equality Officer Decision				€		
Mediated Settlement				€		
Labour Court Determination				€		
Civil Court Award/Order				€		

Note: Please attach copy of decision, mediated settlement, determination or award/order, as appropriate. Date refers to date of decision, settlement, etc.

Part 5 *Unfair Dismissals Act, 1977, or Court Awards in respect of Unfair or Wrongful Dismissal*

	Date			Amount	Reference No.	Has an appeal been lodged? Yes/No
	Day	Mth	Year			
Rights Commissioner Recommendation				€		
Employment Appeals Tribunal Determination				€		
Civil Court Award/Order				€		

Note: Please attach copy of recommendation, determination, award or order, as appropriate. Date refers to date of recommendation, determination, etc

Part 6 *Maternity Protection Act, 1994, Adoptive Leave Act, 1995 or Parental Leave Act, 1998*

Please tick as appropriate

[Maternity Protection Act, 1994](#)

[Adoptive Leave Act, 1995](#)

[Parental Leave Act, 1998](#)

	Date			Amount	Reference No.	Has an appeal been lodged? Yes/No
	Day	Mth	Year			
Rights Commissioner				€		

Recommendation

Employment Appeals Tribunal Determination €

Civil Court Award/Order €

Note: Please attach copy of recommendation, determination, or award/order, as appropriate. Date refers to date of recommendation, determination, etc.

Part 7 National Minimum Wage Act, 2000

Note: A claim under this part is not payable unless proceedings against the employer under [Section 45](#) (1) of the [Industrial Relations Act, 1946](#) , for the amount involved have been instituted.

	Date			Amount	Reference No.	Has an appeal been lodged? Yes/No
	Day	Mth	Year			
Rights Commissioner Decision				€		
Labour Court Determination				€		
Civil Court Award/Order				€		

Note: Please attach copy of decision, determination or award/order, as appropriate. Date refers to date of decision, determination, etc.

Part 8 Statutory Minimum Wages under an Employment Regulation Order

Title of Employment Regulation Order

Have proceedings been instituted against the

Yes

No

employer? (please tick appropriate box)

If Yes, by whom?

In which Court? (If applicable)

State the period in respect of which the claim is being made

From			To		
Day	Mth	Year	Day	Mth	Year

Total No. of Weeks

Gross Weekly Pay €

Total Claimed €

I apply for payment due to me under the Protection of Employees (Employers' Insolvency) Acts 1984-2003 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: _____

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

PART 3

Form EIP3

**Department of
Enterprise, Trade
and Employment**

Insolvency Payments Scheme

Protection of Employees (Employers' Insolvency) Acts, 1984-2003

APPLICATION BY A RELEVANT OFFICER FOR FUNDS IN RESPECT OF:

WAGES, HOLIDAY PAY, SICK PAY, MINIMUM NOTICE ENTITLEMENTS/ AWARDS, ENTITLEMENTS UNDER THE EMPLOYMENT EQUALITY ACT, 1998, UNFAIR DISMISSALS ACT, 1977, COURT AWARDS IN RESPECT OF UNFAIR OR WRONGFUL DISMISSAL, MATERNITY PROTECTION ACT, 1994, ADOPTIVE LEAVE ACT, 1995, PARENTAL LEAVE ACT, 1998, NATIONAL MINIMUM WAGE ACT, 2000 AND STATUTORY MINIMUM WAGES UNDER AN EMPLOYMENT REGULATION ORDER.

NOTE: PLEASE READ NOTES BELOW BEFORE COMPLETING THIS FORM

1. When making an initial claim to the Insolvency Payments Section on behalf of the former employees of an Insolvent Company, copies of the following documentation must be attached:
 - (a) Notice of appointment of Liquidator/Receiver
 - (b) Statement of Affairs/Accounts
2. Initial claims for each employee should be accompanied by a copy of the employee's P45 or written confirmation of his/her class of insurance.
3. **PLEASE NOTE THAT FAILURE TO COMPLETE THE FORM FULLY MAY RESULT IN DELAY IN MAKING THE PAYMENT.**

DETAILS OF INSOLVENT COMPANY

Employer's PAYE Registered No.

Figures

Letters

Name of company

Business Address

Nature of Business

Names of Directors and Company Secretary

PPS No.

Figures

Letters

[%]
Shareholding

Date of Insolvency

Day

Mth

Year

Type of Insolvency

RELEVANT OFFICER CERTIFICATE

Name of Relevant Officer

Name of Company

Business Address

Telephone No. (including area code)

Relevant Officer Tax No.

Figures

Letters

Please attach a schedule of employee entitlements. Annex EIP3(a) attached shows the format required. Please ensure that your schedule is clearly headed by the company name and PAYE No.

No. of pages of Annex EIP3(a) attached

Declaration

To: Minister for Enterprise, Trade and Employment

In connection with the provisions of the Protection of Employees (Employers' Insolvency) Acts, 1984-2003, 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

Department of Enterprise, Trade and Employment

Tel: (01) 6312121

Davitt House

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65a Adelaide Road

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Dublin 2

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Schedule of Employee Entitlements

Form EIP3

**Company
Name**

**PAYE
No.**

Annex (a)

Employee's Name

PPS No.

Total
Arrears of
Wages

Deductions
(Union
dues,
VHI/BUPA,
etc.)

Total
Arrears of
Holiday
Pay

Total
Arrears of
Sick Pay

Total
Minimum
Notice

Total of
Columns
(c), (d),
(e), (f) &
(g)

(a)

(b)

(c)

(d)

(e)

(f)

(g)

1.

2.

- 3.
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- 6.
- 7.
- 8.
- 9.
- 10.
- 11.
- 12.
- 13.
- 14.

Total €

Employee's Name	PPS No.	Employment Equality Act, 1998	Unfair Dismissals Act, 1977, Court Awards in respect of Unfair or Wrongful Dismissals	Maternity Protection Act, 1994, Adoptive Leave Act, Parental Leave Act, 1998	National Minimum Wage Act, 2000	Statutory Minimum Wages Under an Employment Regulation Order	Total of Columns (j), (k), (l), (m) & (n)
(h)	(i)	(j)	(k)	(l)	(m)	(n)	

- 1.

- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.
- 11.
- 12.
- 13.
- 14.

Total €

GIVEN under my hand,

22 May 2003

FRANK FAHEY

Minister of State at the
Department of
Enterprise, Trade &
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 connection with the submission of claims under Section 6 of the Protection of Employees (Employers' Insolvency) Acts, 1984 to 2003.

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