

Ireland

Wage guarantee in case of insolvency

Phase	Protection of Employees (Employers' Insolvency) Acts 1984 - 2006
Native name	Protection of Employees (Employers' Insolvency) Acts 1984 - 2006
Type	Wage guarantee in case of insolvency
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Article

3; 4; 6

Description

In the event of employer insolvency, affected employees are paid statutory minimum payments - statutory redundancy (if applicable), unpaid wages - through the redundancy payments scheme (via the Social Insurance Fund, SIF), which is administered by the Department of Social Protection.

This provision concerns all employed in an employment relationship underlying full social security protection, irrespective of the duration of the employment contract. Part-time and fixed-term contracts are covered. For temporary agency workers, the party which pays the wage/salary is considered the employer - if the hirer company pays wage/salary and becomes insolvent/liquidated, the temporary agency worker comes under the criteria for access to the SIF.

An employer is considered insolvent if the company went bankrupt, has been put under liquidation, filed for insolvency (either in Ireland or in another EU member state) or is legally administered because of the death of the entrepreneur. Examinership, receivership and winding up of partnerships are excluded.

The protection for employees, and critically, access to the SIF, is only guaranteed if the insolvency is formal, i.e. the company has been formally wound up at the courts. If an employer is informally insolvent (no court-approved wind up), affected employees cannot get access to the SIF. However, the minister can apply for a company to be wound up to enable affected employees get access to minimum payments through the SIF.

To apply for support, employees have to fill in the relevant forms and submit them to the insolvency administrator who checks them and confirms them at the guarantee fund. The SIF pays the claims to the insolvency administrator who forwards them to the employees after deducting taxes and similar. The insolvency administrator is also responsible to answer employees' questions regarding the extent of the claims. For other questions, employees are referred to the insolvency income department of the ministry.

Guaranteed are non-paid wages, holiday remuneration as well as other claims the employee has against the employer, such as severance payments, maternity payments or similar. Non-paid wages, sickness payments, holiday remuneration and income for non-worked hours are paid for a maximum of eight weeks. In most of the cases, claims that arose during the 18 months prior to the insolvency/being made redundant are considered. There is a maximum weekly level on an individual's earnings that can be considered for the calculation of payments from the SIF, which is subject to change. The current limit can be found [here](#).

The fund is financed by employers' and employees' contributions, as well as through taxation. The guarantee of the fund is independent of the employer paying the contributions. The regulation provides that the fund should satisfy the employee within 60 days of the request. The Minister for Enterprise, Jobs and Innovation can also use the fund to make payments into the assets of an occupational pension scheme so as to cover contributions that could not be paid by the employer due to insolvency.

Commentary

While there is no centralised state record of the number of redundancies each year, the redundancy payments scheme (paid out via the Social Insurance Fund) has [statistics](#) on what is paid to workers made redundant where their former employer is unable to pay their statutory redundancy.

The weekly cap on an individual's earnings that is considered for payment from the SIF (found [here](#)) is the same cap that applies to statutory redundancy payments.

Additional metadata

Cost covered by	Companies National government
Involved actors other than national government	Other
Involvement (others)	Social Insurance Fund; insolvency administrator
Thresholds	Affected employees: No, applicable in all circumstances Company size: No, applicable in all circumstances Additional information: None indicated

Sources

- [Protection of Employees \(Employer's Insolvency\) Acts](#)~~~ [Redundancy Payment Scheme Statistics](#)~~~ [Protection of employees \(employers' insolvency\) acts 1984 - 2006](#) ~~~ [Dail debates, 'Redundancy payments', 4 March 2021](#)~~~ European Commission, 2011, Report from the Commission to the European Parliament and the Council on the implementation and application of certain provisions of Directive 2008/94/EC on the protection of employees in the event of the insolvency of t...,~~~

Citation

Eurofound (2015), Ireland: Wage guarantee in case of insolvency, Restructuring legislation database, Dublin