

# Insolvency - some basic guidance for employees of potentially insolvent companies



Spring 2009

**Many people are currently worrying about their options in the event of their company becoming insolvent. Employment rights in all situations, including insolvency, are complex and have been developed over many years to meet the challenges of the kind of situations the economic downturn has made a reality for many.**

There are various types of insolvency that a business can submit to, but these are largely divided into two fundamental groups:

1. Terminal insolvency proceedings - where the aim is to realise the assets of a firm by breaking-up and selling its assets. For example: compulsory liquidation where employment contracts are automatically terminated on the date of the winding-up order, or creditor's voluntary liquidation where it is likely that termination will follow swiftly  
and
2. Non-terminal insolvency proceedings – where the aim is to rescue all or part of the business. For example: administration, where the administrator/receiver may well adopt the contracts of most employees in order to keep the business running. The advantage of this situation is that better protection is offered to those adopted employees for the payment of their wages and other entitlements.

Unfortunately an insolvent employer may not have been able to maintain staff wages in the period preceding the final insolvency proceedings. Any employees who find themselves in the unenviable position of being owed salary and benefits (such as pension or accrued holiday pay ) will often find themselves at the bottom of a long list of creditors, unless their contracts are adopted. In such circumstances the RPO (Redundancy Payments Office) May be able to assist. An employee (but not a 'worker') who loses money because of an insolvent employer may be able to recover an amount of this from the RPO, including:

1. unpaid wages for up to eight weeks prior to the insolvency (subject to a maximum rate of £330pw )
2. up to six weeks' holiday pay (again, subject to the upper weekly limit)
3. any statutory minimum period of notice (limited as before)
4. statutory redundancy pay
5. basic award for unfair dismissal
6. unpaid contributions to pension scheme

Certain conditions apply to any application, and bear in mind that the consent of the administrator or the court may be required in certain insolvency situations.

Details of your local RPO are available at the Government's BERR (Department for Business, Enterprise and Regulatory Reform) website at <http://www.berr.gov.uk/whatwedo/employment/redundancy/red-pay-office/page14404.html>

1 Cockfosters Parade, Cockfosters,  
Hertfordshire EN4 OBX

[www.parkeswilshirejohnson.co.uk](http://www.parkeswilshirejohnson.co.uk)

Tel: 020 8441 1556  
DX: 49956 Cockfosters  
Fax: 020 8449 5774

[law@pwjsolicitors.co.uk](mailto:law@pwjsolicitors.co.uk)

Highstone House, 165 High Street,  
Barnet, Hertfordshire EN5 5SU

[www.parkeswilshirejohnson.co.uk](http://www.parkeswilshirejohnson.co.uk)

Tel: 020 8364 9955  
DX: 130034 Barnet 3  
Fax: 020 8364 9959

[law@pwjsolicitors.co.uk](mailto:law@pwjsolicitors.co.uk)

This site is also a useful first port of call for any basic questions relating to redundancy or insolvency. If you would like to seek more comprehensive and practical advice regarding your employment issues then please do not hesitate to contact us at our Cockfosters or Barnet offices or submit your query by e-mail to [law@pwjsolicitors.co.uk](mailto:law@pwjsolicitors.co.uk) quoting the words 'website enquiry'.. We can also assist in any other employment law matters for employers and employees or workers.

***intended to provide any form of advice or a comprehensive presentation of all matters relating to the topic in question. No representations or warranties are given by Parkes Wilshire Johnson in relation to any information included in any of the articles on this website and specific individual advice should be sought from us if you have any doubt about the application of the information to your particular situation.***

***This Newsflash is intended to provide information on areas of law which might be of use to our clients and is not***

1 Cockfosters Parade, Cockfosters,  
Hertfordshire EN4 OBX

[www.parkeswilshirejohnson.co.uk](http://www.parkeswilshirejohnson.co.uk)

Tel: 020 8441 1556  
DX: 49956 Cockfosters  
Fax: 020 8449 5774  
[law@pwjsolicitors.co.uk](mailto:law@pwjsolicitors.co.uk)

Highstone House, 165 High Street,  
Barnet, Hertfordshire EN5 5SU

[www.parkeswilshirejohnson.co.uk](http://www.parkeswilshirejohnson.co.uk)

Tel: 020 8364 9955  
DX: 130034 Barnet 3  
Fax: 020 8364 9959  
[law@pwjsolicitors.co.uk](mailto:law@pwjsolicitors.co.uk)