

No. 50

EMPLOYMENT RIGHTS (INSOLVENCY OF EMPLOYER)
ORDINANCE 2003
(Ordinance 1 of 2003)

REGULATIONS UNDER SECTION 7

In exercise of the powers conferred upon him by section 7 of the Employment Rights (Insolvency of Employer) Ordinance 2003, the Administrator hereby makes the following Regulations—

Citation

1. These Regulations may be cited as the Employment Rights (Insolvency of Employer) Regulations 2004.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“claimant” means a person who applies for a payment from the Insolvency Fund, in accordance with the Ordinance, by reason of the insolvency of his employer, and “claim” shall be construed accordingly;

“examiner of claims” means such person as the Chief Officer may appoint to examine claims;

“the Ordinance” means the Employment Rights (Insolvency of Employer) Ordinance 2003.

Examiner of claims

3.—(1) The Chief Officer may appoint such person as he deems fit to be an examiner of claims.

(2) A claim shall be examined by the examiner of claims.

(3) Following the examination of a claim, the examiner of claims may—

(a) approve the claim in whole or in part;

(b) reject the claim; or

(c) following notification to the claimant of his intention to do so, refer the claim to the Industrial Disputes Tribunal.

(4) If the examiner of claims decides to reject a claim wholly or in part, he shall within ten days of his decision notify the claimant in writing of his decision, giving his reasons for his decision, and shall inform the claimant that if he is not satisfied with the decision, the claimant may appeal against it to the Industrial Disputes Tribunal.

Time limit for making a claim

4.—(1) A claim under section 3 of the Ordinance based on the insolvency of the employer shall be made within a period of three months from the day that the employer became insolvent.

(2) If a claimant proves that he had reasonable cause for having failed to make his claim within the period of three months provided for in subsection (1) above, the period within which he may make

a claim shall be extended by a decision of the Chief Officer for as long as the reasonable cause continues, but in no case may the period be extended by more than twelve months.

Procedure for making claim

5.—(1) A person shall not be entitled to any payment from the Insolvency Fund unless he—

- (a) makes his claim as provided for by regulation 4; and
- (b) furnishes such certificates, documents, information and other evidence as the Chief Officer deems necessary for the proper examination of the claim, and proceeds with his claim at such place as the Chief Officer may direct.

Place of payment of a claim

6. A payment from the Insolvency Fund shall be made at such place as the Chief Officer shall determine.

Claimant becoming incapable or dying

7. If a person who has made a claim or who appears to be or to have been entitled to make a claim is, or becomes incapable of acting or dies, the Chief Officer may appoint a suitable person, at his discretion, to make the claim or proceed with it and to receive any payment due under the claim in a representative capacity on behalf of the claimant or of his estate.

Repayments of payments to which claimant was not entitled

8. A person who receives any payment from the Insolvency Fund to which he is not entitled as a result of the concealment of any material fact or of any false representation, shall be liable, in addition to any penalty that the Court may impose, to repay the Insolvency Fund the amount he had paid and to which he was not entitled.

Destination of fines and costs

9. Any fine imposed or costs awarded against any person in respect of any proceedings under the Ordinance or these Regulations shall be payable to the Insolvency Fund.

Dated this 19th day of March 2004.

By the Administrator's Command,
P. D. Draycott,
Chief Officer,
Sovereign Base Areas.

(SBA/128/275/1)
