



Liquidation – What it means for employees

It's common for news of redundancies to be delivered with little to no warning, with cashflow problems prohibiting ongoing trading activities. Being made redundant as part of insolvency can be hugely distressing, leaving you with many questions. What does this all mean for you?

What is an insolvency practitioner?

Depending on your role within an organisation, and the size of its operation, you may have been completely unaware of your employer's precarious financial situation.

If your employer is entering liquidation, then the directors are likely to have engaged a licensed insolvency practitioner to help them with the formalities of placing the company into liquidation.

Liquidation is a legal process governed by UK law. The legal process to commence a liquidation typically takes around two to three weeks.

In the lead-up to a liquidation, it's common for the company to cease trading. You may have received notice of your redundancy from an insolvency practitioner, who will have attended your work premises alongside the directors.

Usually, the insolvency practitioner will become the liquidator of the company once the initial process has been completed. For information about the role of a liquidator, please see our brochure entitled 'What is liquidation?' on our website.



Only licensed insolvency practitioners or Official Receivers are allowed to handle the affairs of insolvent businesses in the UK."

Although the insolvency practitioner is likely to inform you of your redundancy, their role is also to help you recover any money that you're owed.

You may be entitled to arrears of wages (time that you have worked but haven't been paid for), holiday pay, notice pay and redundancy pay.

As the company is insolvent, it's unable to pay this to you, therefore, the Redundancy Payments Service (RPS) will step in to make sure that you're not out of pocket.

Other expenses and tribunal awards can also be claimed from the RPS.

Redundancy Payments Service

The RPS is a government department which deals with employee claims for arrears of wages, holiday pay, notice pay and redundancy pay when a company isn't able to pay its employees. The RPS can't accept any claims until the company is in liquidation and they aim to process the claims within six weeks of receipt. The RPS will pay the employees what they're owed, replacing the employee as a creditor in the liquidation.

The RPS makes sure that employees are not left without payment for their services and that they receive any redundancy pay that they're entitled to, within certain statutory limits. The RPS will need each employee to complete a claim form online. The liquidators will also have to submit information regarding the claims from the company records.

When a company is placed into liquidation, the liquidator will provide employees with an RPS factsheet which will include instructions on making a claim online as well as the relevant reference number for the claim.

What are the different types of claims?

Arrears of wages

This is a payment for wages and other money you're owed by your employer, and will be in line with your current contract of employment. The RPS is only able to pay arrears for a period of up to eight weeks and most payments are taxed at a standard rate of 20%.

However, the amount the RPS is able to pay to you is limited to a weekly statutory maximum (£571 in March 2023). If you're owed more than the statutory maximum, you can make a claim in the liquidation for the residual amount.

Holiday pay

You may be entitled to holiday pay accrued but not taken, or holiday taken but not paid. The amount due to you for holiday pay will be pro-rated in relation to the holiday year rather than for your whole year's holiday entitlement.

For example, if you're entitled to 28 days' holiday, your holiday year start is 1 January and your employment ends on 30 September then you've completed 273 days of the holiday year. Accordingly, you've accrued 20.94 days' holiday ($28 \text{ days} / 365 \text{ days} = 0.077 \times 273 \text{ days} = 20.94 \text{ days}$).

If you've taken 15 days' holiday in that period then you would be owed 5.94 days' holiday pay. The weekly statutory maximum would apply (£571 in March 2023) and any residual amount can be claimed in the liquidation.

The RPS can pay up to a maximum of six weeks' holiday pay to any one claimant and payments will have tax deducted at the standard rate of 20%.

Notice pay

This is compensation for not being given all of your statutory notice entitlement. The RPS can pay you a maximum of one week's notice pay for every full year you were employed. The most they can pay is 12 weeks' notice pay for those employed 12 years or longer.

Any income-related benefits you were entitled to claim during your notice period will be deducted from your payment. The RPS will do this whether or not you actually claimed them. If you start a new job in the notice period, they must also deduct the value of any wages you've earned during this period.

The weekly statutory maximum would apply (£571 in March 2023) and any residual amount can be claimed in the liquidation. Tax will be deducted at the standard rate of 20%.

Redundancy pay

If you've been employed by the company for more than two years, you may be entitled to claim for statutory redundancy pay. The amount that the RPS will pay you is dependent on how long you have worked for the company and your age.

For example, if you've worked for the company for eight years and you're 34 years of age, you would be entitled to eight weeks' pay. The weekly statutory maximum would apply (£571 in February 2023) and any residual amount can be claimed in the liquidation. Redundancy pay is not taxable income.



Need help?

If you're an employee of a liquidated company, you should contact the liquidator in the first instance to discuss your claim or queries.

If you believe that your employer is insolvent and have any queries or concerns, please get in touch with our Insolvency & Recovery team. We have two licensed insolvency practitioners as well as insolvency managers who can offer advice and help, tailored to your specific circumstances.

0330 024 0888 | enquiry@larking-gowen.co.uk | larking-gowen.co.uk  @LarkingGowen