

Chapter 30

Department of Enterprise, Trade and Innovation

Redundancy and Insolvency Payments

Redundancy and Insolvency Payments

30.1 The Department of Enterprise, Trade and Innovation (the Department) is responsible for the management of statutory redundancy and insolvency schemes under the Redundancy Payments Acts, 1967 to 2007 and the Protection of Employees (Employers' Insolvency) Act 1984. The Department administers three main types of payment under those schemes

- rebates to employers of 60% of the statutory redundancy payments made to employees
- statutory redundancy payments to employees in cases where employers are not in a position to make the payments
- in cases of insolvency, payments to employees (usually made through liquidators or receivers) in relation to outstanding entitlements relating to pay.

30.2 The Social Insurance Fund (SIF) managed by the Department of Social Protection (DSP) bears the cost of the schemes. It is intended to integrate this function into the DSP from January 2011.

Scheme Outturn

30.3 Figure 145 outlines payments made in respect of redundancy and insolvency for the years 2004 to 2009²²⁹.

Figure 145 Scheme Expenditure, 2004-2009

Scheme	2004 €m	2005 €m	2006 €m	2007 €m	2008 €m	2009 €m
Employer Rebates	137.8	137.9	152.1	167.4	161.8	247.9
Employee Payments	14.3	11.3	14.3	15.9	31.9	88.0
Insolvency Payments	5.5	4.6	4.3	5.7	10.1	20.0
Total Expenditure	157.6	153.8	170.7	189.0	203.8	355.9
Less Receipts	10.6	3.8	1.0	1.6	1.9	6.2
Net Expenditure	147.0	150.0	169.7	187.4	201.9	349.7

Source: Redundancy and Insolvency Division, Department of Enterprise, Trade and Innovation.

30.4 Overall, there was a three-fold increase in the number of redundancy related claims received between 2007 and 2009, rising from 25,459 to 77,001. Insolvency claims also increased by similar proportions rising from 5,895 in 2007 to 21,411 in 2009.

Chapter Focus

The audit focused on redundancy payment administration and reviewed Departmental controls to manage the payment systems. It also examined subsequent employment patterns for persons made redundant up to the end of 2009.

²²⁹ Figures for 2009 are provisional.

Payment Administration

30.5 A sample of 15 employers, accounting for 902 redundant employees, was selected in order to establish whether there were sufficient controls in place to ensure that redundancy payments made were within the parameters of the scheme. The audit examined procedures in place to ensure that

- all required documentation had been submitted with claims
- appropriate officials had checked that claims had been made within the rules of the scheme
- an authorised officer had authorised payment of the claim
- amounts refundable by employers were recorded
- claimants' entitlement under social welfare criteria had been checked
- the data in the Redundancy and Insolvency computer system had been accurately recorded.

30.6 The audit also checked 110 claims in detail to ensure they conformed with eligibility criteria and that the resulting payments were accurate.

Conclusion – Administration

The audit showed the control system governing payments to be satisfactory and all cases reviewed for eligibility were found to have entitlement to payment.

Debt Management

30.7 A debtor balance is created and recoupment is sought from the employer when lump sums of 100% of statutory redundancy entitlements are paid to an employee or when amounts under the Insolvency Scheme are paid out of the SIF.

30.8 At 31 December 2009, the SIF was owed €144 million by employers. Employer liabilities classified by age of debt are summarised in Figure 146.

Figure 146 Aged Analysis of Redundancy and Insolvency Debtors

Year of Debt	Original Debtor Raised	Receipts ^a in Respect of Year	Receipts as Percentage of Original Debtor	Write Offs and Adjustments ^b in Respect of Year	Outstanding 31 December 2009 ^c
	€	€	%	€	€
Up to 31 December 2004	70,231,015	15,413,469	22%	15,824,961	38,992,585
2005	9,821,792	1,695,372	17%	1,360,982	6,765,438
2006	10,939,261	3,312,308	30%	355,485	7,271,468
2007	12,923,670	678,387	5%	70,752	12,174,532
2008	24,063,239	821,219	3%	129,772	23,112,247
2009	56,583,460	674,411	1%	15,089	55,893,960
Total	184,562,437	22,595,166	12%	17,757,041	144,210,230

Notes:

- a Receipts do not include €15,820 received in 2009 relating to debts raised in 2010.
- b This includes reductions of €569,135 in the amounts owing to reflect the change in status of a company from defaulter to insolvent.
- c The debtors figures provisional and are subject to audit.

30.9 The level of debt due to the SIF has increased by approximately 62% (€55 million) from 2007 to 2009. At the end of 2009, there was a liability of €78 million outstanding in respect of the Redundancy scheme and €66 million in respect of the Insolvency scheme. Debt arising in 2009 alone accounted for around 39% of this, while amounts owed for more than five years made up 27% of the outstanding sums.

30.10 22% of debts raised in the period up to and including 2004 have been collected. Since then, with the exception of 2006 where recovery is currently at the rate of 30%, levels of recovery have been low.

30.11 In the case of insolvency debt, the Department has indicated that its current focus is on cases where liquidators or receivers have been appointed.

30.12 While it has no formal targets for recovering outstanding amounts, the general aim is to recover as much debt as possible.

Receipts

30.13 In 2009, the total collected from debtors to the SIF was €6.2 million. The pattern of collection suggests that there can be a considerable time lag in recovering outstanding amounts. Figure 147 sets out the recoveries in 2009 to the year when the debt was incurred.

Figure 147 2009 Receipts by Year of Origin

Year of Debt Creation	2009 Collection €
Up to 31 December 2004	1,318,944
2005	464,039
2006	2,528,137
2007	517,877
2008	736,381
2009	674,411
2010 ^a	15,820
Total	6,255,609

Note:

a Receipts of €15,820 were received in 2009 relating to debts raised in 2010.

Write-Offs

30.14 €8.7 million of the cumulative write-offs of €17.2 million occurred in 2009.

30.15 In administering these write-offs, a Write-Off Committee established in the Department in April 2008 has authority to deal with amounts under €10 million, subject to approval at Assistant Secretary level in the Department. The Secretary General of the Department must approve amounts in excess of this threshold. Figure 148 relates the amounts written off in 2009 to the year in which the debt first arose.

Figure 148 Debt Written Off in 2009

Year of Origin	2009 Write-Offs €
Up to 31 December 2004	7,153,512
2005	1,145,213
2006	353,395
2007	49,240
2008	-
2009	-
Total	8,701,360

30.16 All companies being dealt with by the Write-Off Committee are either in liquidation, receivership or subject to a High Court Order for winding up. Since its establishment in 2008, the Write-Off Committee has written off debts relating to almost 680 companies. The largest write-off was €1.9 million and the smallest was €127.

Views of the Department of Enterprise, Trade and Innovation

30.17 During the period January 2009 to May 2010, a total of 80,188 redundancy claims were paid with an associated statutory redundancy entitlement of €789 million.

30.18 In response to my enquiries, the Accounting Officer stated that the growth of debt in 2009 and the extent of employer default should be viewed in light of the unprecedented downturn in the economy which saw increasing numbers of companies ceasing to trade completely and defaulting on their debts. The Department continues, despite the very considerable pressures on the payments front, to actively pursue all monies owing to the SIF with the issuing of reminders on a quarterly basis to all companies and sole traders who have a liability to the Fund.

30.19 He stated that the Department has become more active in insisting, in the case of informal insolvency, on employer acknowledgment of the 40% liability to the SIF. The Department has engaged with companies to seek instalment payment plans and this has shown some positive results. Recoveries of €6.2 million in 2009 represented a significant increase on earlier years but is still small compared with the level of expenditure from the scheme, representing just 1.7% of the total redundancy expenditure in 2009.

30.20 In cases where scheme payments have been made on behalf of an insolvent employer, the Department, while a preferential creditor, has to wait until the liquidator has completed the liquidation, before it can be determined as to what, if any, dividend will be paid. Where a dividend has been paid which is insufficient to defray the liability to the Fund and the company has been dissolved, the balance is written off by the Write-Off Committee. Once the liability to the Fund has been acknowledged, there is no statutory limitation on its collectability and those with liabilities to the Fund are sent reminders regularly.

30.21 In the case of employers with existing debt who become entitled to a rebate and have failed to pay other employees their statutory entitlements, the liability to the Fund is satisfied from the rebate.

Conclusion – Debt Management

All debt was found to be listed for recovery. While the present economic conditions militate against recovery, the Department would need to apply focused risk management to all components of the debt and to guard against premature write-off of amounts owing.

Subsequent Employment History

30.22 Statutory redundancy is paid in recognition of the fact that the employee has, inter alia, been in continuous employment with his former employer for a period of at least two years. The payment is intended to assist the transition of that employee into another employment, which could happen immediately after the termination of his previous employment.

30.23 Employees who have been made redundant by their former employer are not in any way limited from taking up new employment.

30.24 The examination found that 903 companies that had made 16,211 employees redundant in 2009 had subsequently reemployed 1,464 of those employees. The statutory redundancy entitlement of the employees reengaged amounted to €12.9 million. About 54% of the employees reemployed by the same employer came from building and civil engineering or manufacturing. Employees reengaged within three months of being made redundant represented 24% of those reengaged. 7% were reengaged within one month.

30.25 425 employees previously employed in 19 companies moved en bloc in groups of ten or more to another employer. The statutory redundancy entitlement of these individuals was €7.4 million. More than one-third were reemployed within 30 days and most of them were employed within three months.

30.26 Ten or more employees transferred into pension arrangements in the case of 15 employers. In total, 544 individuals with a statutory redundancy entitlement of €20.6 million were identified as transferring to pension arrangements.

Conclusion – Subsequent Employment

Overall the audit noted that

- 1.6% of the total statutory entitlement of payments examined in the period January 2009 to May 2010 was in respect of persons rehired by the employers who made them redundant
- Just under 1% represented a sample of employees who were rehired in groups of ten or more by employers in related businesses
- 2.6% consisted of employees who moved to pension schemes.

Conclusion

The audit provided assurance that redundancy payments are in accordance with entitlement.

A net €52 million was paid out of the Social Insurance Fund in the 24 months to 31 December 2009. Included in this amount are obligations of €79 million which the State has met following default by employers and not yet recovered.

With the transfer of responsibility for the scheme to the Department of Social Protection, an opportunity arises to increase monitoring of overall employment patterns, including reemployment following redundancy. Such information could provide a valuable input into future employment policy initiatives.

Chapter 31

**Department of Social Protection
Expenditure on Social Welfare**