

REDUNDANCY

General

An Employer must give a lump sum redundancy payment to individuals who are made redundant, who have at least two years continuous service and who meet certain other conditions. Employees qualify for redundancy payments if they work under a contract of employment.

The employment must be terminated, in order for redundancy rights to apply. This means that the employee must not have resigned. Where a fixed contract ends without being renewed, this may count as a termination of employment for the purpose of redundancy legislation.

If the identity of the employer changes due to the transfer of the business, the employment contract rights are transferred automatically to the new employer. There is a right not to be transferred, but this is treated as a resignation with no entitlement to redundancy.

Redundancy arises mainly when the employer needs to reduce the work force. This may happen because a workplace is closing down or because fewer employees are or expect to be needed. Generally the job must have disappeared. If an employer was to immediately re-employ another as a direct replacement, this could not be redundancy and is likely to be an unfair dismissal. If employment is terminated due to a need to reduce the workforce and remaining employees move into the job, this may count as a redundancy as long as no vacancy exists in the area where the substituted employee worked.

There may be no entitlement to redundancy payment if the employer offers a new job with the same employer or an associated employer or with an employer taking over the business. If the new job is not a suitable alternative to the old one because of differences in capacity, location or terms and is turned down before the end of the trial of

the four week period, there is deemed to be redundancy from the date of termination of the original employment.

The Redundancy legislation also has implications where there are lay offs i.e. where employees are not paid wages or put on short time for four weeks in a row or six weeks out of thirteen weeks. Where this occurs, redundancy payments are also required.

Disputes regarding entitlement to or amounts of redundancy payment are referred to the Employment Tribunals.

An employee who is given notice of dismissal because of redundancy is entitled to reasonable time off with pay, to look for another job or arrangements for training in future employment. This applies even if they have less than two years continuous employment.

Entitlements

The entitlement to lump sum redundancy payments depends on the amount of continuous service with the employer and weekly pay up to a limit. There is a half week's pay for each full year of service under the age of 22, a full week's pay for each full year service between 22 and 41 and 1.5 week's pay for each full year of service over 41 years of age. The maximum number of consecutive years of service that count for statutory redundancy is 20. Absence through sickness , pregnancy and temporary shortage of work count towards continuous service.

A weeks pay is calculated on the basis of final pay. There is a limit in the amount of pay that can be taken in to account. The current weekly limit (2008) is £330.

If an employer is insolvent it is possible to apply to a Government Department who will make the payment and reclaim it from the business.

This Guide is intended as an overview and broad outline of the matters covered in it. Its purpose is to inform and raise awareness. We are happy to offer specific legal advice on particular circumstances.

This Guide should not be relied on as a substitute for comprehensive legal advice with reference to the particular circumstances.

While we have taken due care in the preparation of this publication, we do not accept legal liability as a result of any reliance placed on anything in this Guide. The reader should rely only on specific legal or taxation advice.

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