



Redundancy

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Redundancy & Unfair Dismissal

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What is Redundancy?

- The Redundancy Payments Acts defines redundancy to include:

“the fact that the requirements of that business for employees to carry out work of a particular kind in the place where he was so employed have **ceased or diminished** or are **expected to cease or diminish**”.

Redundancy & Unfair Dismissal

It is important to note that redundancy is still a termination of employment therefore a risk is attached to the same.

Although a redundancy situation may exist, employees may have grounds for complaint if the manner of the selection for redundancy was deemed unfair or that a genuine redundancy situation does not exist.

The following Acts must be complied with:

- Unfair Dismissal, Unfair Dismissals Acts 1977 - 2015
- Equality, The Employment Equality Acts 1998 - 2015

Collective Redundancy

- Collective redundancies arise where, during any period of 30 consecutive days, the employees being made redundant are:
 - 5 employees where 21-49 are employed
 - 10 employees where 50-99 are employed
 - 10% of the employees where 100-299 are employed
 - 30 employees where 300 or more are employed

Collective Redundancies – 2 key obligations

1. The employer is also obliged to inform the Minister for Jobs, Enterprise and Innovation **in writing** of the proposed redundancies **at least 30 days before the occurrence of the first redundancy**.
2. The redundancy legislation requires that the Company must consult with the employees as soon as is reasonably practical but not later than 30 days in the case of collective redundancy. The following matters should be addressed in the employee consultancy phase:
 - The reasons for the redundancy
 - The number and descriptions of the employees affected
 - The number and descriptions of employees normally employed
 - The period in which the redundancies will happen
 - The criteria for selection of employees for redundancy
 - The method of calculating any redundancy payment e.g. just statutory or an additional ex gratia

Selection Process

- In selecting employees for redundancy, the Company must apply selection criteria that are reasonable and are applied in a fair manner.
- There are ways for selecting employees for redundancy outlined below:

Last in first out or

A selection matrix
which will have to be
tailored specifically
for a role or

Location of work

Position vs Person

It is important to remember that it is always the position not the person that is made redundant.

This is why you need a fair selection criteria.

- The first step is to consult with the employees.
- The redundancy legislation requires that the Company must consult with the employees as soon as is reasonably practical.
- Failing to hold a consultation period may result in a claim by the employee(s) to the WRC.
- The WRC has the jurisdiction to award up to four weeks' salary/wages.
- Failure to comply with any other requirement under the Redundancy Acts may result in compensation of up to two years' salary/wages or reinstatement or re-engagement of the employee.

Alternative Work

- The Employer must consider all options including possible alternatives.
- If there is an alternative position available it must be put to the employees.
- If they refuse a reasonable offer then it may be a case that they lose their entitlement to a redundancy payment.
- An employee may take up an alternative on trial for up to four weeks.

Statutory Payments

- Each employee with two years continuous service is entitled to two weeks' salary for every year of service, plus one bonus week.
- The payments will depend on hours of work and gross salary.

Ex-Gratia Payments

- Can be anything you so wish.
- Should be rolled out across the board.
- May be subject to income tax depending on the amount given to the employee.
- It is essential they sign a waiver to confirm their agreement to the same.

Other Considerations

- As redundancy is a termination of employment, the minimum notice set out in the employment contract or the Minimum Notice and Terms of Employment Acts, 1973-2005.
- The Redundancy Payments Acts of 1967 - 2007 outlines employee's right to paid time off to look for alternative employment or arrange for training.
- This summary is for information purposes only. For organisational specific advice please discuss with your account manager to ensure legislative requirements are met at all times to limit your organisational liability.
- Advantage should be taken of **Employee Assistance Programmes** where available and employees should be reminded of same.

Contact Us Now



Phone

Kerry : 066 7102887

Dublin: 01 9014335

Email

info@thehrsuite.com

Website

www.thehrsuite.com

Address

Head Office:

Pier 17,
Dingle Road
Tralee
Co.Kerry

Dublin Office:

13 Upper Baggot
Street, 2nd Floor
Dublin

Cork Office:

5 Lapps Quay,
Cork,