

## Workplace Law Fact Sheet

### Redundant?

#### Know your rights and obligations in terms of severance pay

Following the Global Economic Crisis, most people are aware of what redundancy means for both employers and employees.

What few people realise is that from 1 January 2010, the National Employment Standards contained in the *Fair Work Act 2009* came into operation, and now offers greater guaranteed protection to most employees facing redundancy.

Under the *Fair Work Act*, redundancy occurs when an employer terminates employment because they don't need that job to be done by anyone, there have been changes to the business's operation requirements or they become insolvent or bankrupt.

If the employer employs more than 15 employees, an employee has more than 12 months continuous service and is a permanent employee, or a workplace agreement containing redundancy payments applies, employees may be entitled to redundancy or severance pay.

Redundancy pay is calculated at the employee's base rate of pay (not including allowances), and can be as much as 16 weeks pay depending on the period of continuous service. There are also provisions for the payment of long service leave entitlements in certain circumstances.

1 to 2 years	4 weeks
2 to 3 years	6 weeks
3 to 4 years	7 weeks
4 to 5 years	8 weeks
5 to 6 years	10 weeks
6 to 7 years	11 weeks
7 to 8 years	13 weeks
8 to 9 years	14 weeks
9 to 10 years	16 weeks
10 or more years	12 weeks plus long service leave in some circumstances

An employer may apply to Fair Work Australia for an order reducing the amount of redundancy pay owing to an employee, and this can be diminished to zero if the employer has found suitable alternative employment for the employee, or the redundancy payment owing to the employee is unaffordable.

It is important for employers to follow a correct and fair procedure when contemplating redundancy in their workplace. If employers fail to consult where necessary, or follow the correct procedure, they may be opening themselves up for an unfair dismissal claim. There are also requirements to notify Centrelink in certain circumstances, before any dismissals take place.

Employers should also determine whether there are additional rules that apply to them before embarking on a redundancy exercise, to ensure that sufficient financial resources are available to meet their statutory obligations. In addition to the above entitlements, further payments such as accumulated leave pay, notice pay, or other payments in terms of individual contracts such as pro-rata bonus pay may also be required.

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