

LEGAL UPDATES AND FACTSHEETS

REDUNDANCY CHECKLIST

1 INTRODUCTION.

- 1.1 Redundancy must be fair – both in substance and procedure.
- 1.2 There must be a genuine reason for the redundancy and it must be carried out with due regard for fair procedure. Both elements are necessary if employers want to avoid tribunal action.
- 1.3 In practical terms, the first step in the redundancy dismissal procedure is *the business decision on the necessity* of making one or more employees redundant. Thereafter, the following redundancy procedure should be considered.

2 REDUNDANCY PROCEDURE.

- 2.1 Inform the employees who may be affected. For collective redundancies (where the proposal is to make at least 20 employees redundant within 90 days or less), consult with the appropriate representatives of the employees concerned within the appropriate time limits on the measures to be taken (set out below). The employees and, where necessary, their representatives must be provided with all the necessary information.
- 2.2 Decide on the number of employees to be made redundant.
- 2.3 Invite volunteers for redundancy and consider early retirement options.
- 2.4 Consider whether alternative jobs are available within the organization or group. If it should be necessary to retrain employees for those jobs, consider the practicality of doing this.
- 2.5 Select employees to be made redundant in accordance with any customary arrangement or agreed procedure. If no such arrangement or procedure exists establish, if possible, objective criteria for selection and apply them consistently. (Where collective redundancies take place, agreement on criteria must be sought from the relevant unions or employee representatives).
- 2.6 Consult with individuals affected before a final decision is taken.
- 2.7 Inform those employees as soon as possible of their impending redundancies and a reasonable timetable should be worked out and explained.
- 2.8 Allow them time off to look for other employment.
- 2.9 In collective redundancy situations, notify the Department of Trade and Industry (DTI) within the appropriate time limits (see below).
- 2.10 Issue dismissal notices taking due note of the time limits (see below).
- 2.11 Give details of redundancy pay where appropriate.

3 TIME LIMITS.

- 3.1 The date on which dismissal is to take effect should be fixed having regard to the obligations of the employer regarding notice and the following time limits:
- 3.2 In all cases of redundancy, the employee(s) must be notified of their dismissal in good time.
- 3.3 Where 20-99 employees are being made redundant, the employees and the DTI must be notified 30 days before the first dismissal.
- 3.4 Where 100+ employees are being made redundant, the employees or the DTI must be notified 90 days before the first dismissal.

4 REDUNDANCY PAY.

- 4.1 *The Employment Rights (NI) Order 1996 (ERO)* states that an employee is eligible for redundancy pay where he was continuously employed for a 2 year period and redundancy is the reason for his dismissal.

- 4.2 To calculate an employee's redundancy payment at the effective date of termination (EDT), the following variables must be determined:
- Age of the employee at EDT.
 - Period of continuous employment. That is, establish when the employee commenced work and work through to EDT.
 - The employee's weekly pay. That is, gross pay received – subject to a statutory maximum, currently capped at £330 per week.
- 4.3 The employee's age and period of continuous employment, with the aid of the Ready Reckoner for Redundancy Payments, are then used to determine the number of weeks pay the employee is entitled to.
- 4.4 On top of this value, the employee may be entitled to a further payment which is determined as follows:
- One and a half weeks pay for each such year of employment which consists wholly of weeks in which the employee was not below the age of 41 years old.
 - One weeks pay for each such year of employment (not falling into the above category) which consists wholly of weeks in which the employee was not below the age of 22 years old.
 - One half of a weeks pay for each such year of employment not falling within either of the above categories.
- 4.5 When determining redundancy payments, the maximum number of years of service to be taken into account is 20 years.

5 REDUNDANCY AND AGE LEGISLATION.

- 5.1 Discrimination against an employee on the grounds of age is unlawful under The Employment Equality (Age) Regulations (NI) 2006 (EER), which came into force on 1 October 2006. This piece of legislation has had a significant impact on the rules governing redundancy and redundancy payments in Northern Ireland.
- 5.2 Before the 1 October 2006, Article 191 ERO stated that if an employee was to be made redundant after his 65th birthday (or his normal retiring age if this is less than 65), he was not entitled to statutory redundancy pay.
- 5.3 From the 1 October 2006, Article 191 ERO has been repealed by Regulation 53(2) of Schedule 8 EER. This has removed the upper age limit for statutory redundancy pay with the result that denying an employee over the retirement age his statutory redundancy pay is unlawful age discrimination.
- 5.4 Therefore, employers must ensure that they follow the correct procedure (outlined at par 2 above) when selecting a person who is over the retirement age for redundancy. They should not use the employee's age as a deciding factor unless its use can be objectively justified. Failure to do so could lead to a claim for unlawful age discrimination.



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