Redundancy

Redundancy happens when an employer either:

- doesn't need an employee's job to be done by anyone, or
- becomes insolvent or bankrupt.

Redundancy can happen when the business:

- introduces new technology (eg. the job can be done by a machine)
- slows down due to lower sales or production
- closes down
- relocates interstate or overseas
- restructures or reorganises because a merger or takeover happens.

What's a genuine redundancy?

A genuine redundancy is when:

- the person's job doesn't need to be done by anyone

When an employee's dismissal is a genuine redundancy the employee isn't able to make an unfair dismissal claim.

A dismissal is not a genuine redundancy if the employer:

- still needs the employee's job to be done by someone (eg. hires someone else to do the job)
- has not followed relevant requirements to consult with the employees about the redundancy under an award or registered agreement or
- could have reasonably, in the circumstances, given the employee another job within the employer's business or an associated entity.

Consulting with employees about major workplace changes

All awards and registered agreements have a consultation process for when there are major changes to the workplace, such as redundancies.

The consultation process sets out the things the employer needs to do when they decide to make changes to the business that are likely to result in redundancies. This has to be done as soon as possible after the decision has been made to make these changes.

Consultation requirements include:

- notifying the employees who may be affected by the proposed changes
- providing the employees with information about these changes and their expected effects
- discussing steps taken to avoid and minimise negative effects on the employees
- considering employees ideas or suggestions about the changes.


Best practice tip


If a business is considering redundancy of 15 or more staff, employers need to give written notification to Services Australia of the proposed dismissals. More information and a notification template are available on the Services Australia website (https://www.servicesaustralia.gov.au/organisations/business/services/centrelink/redundancy-information-employers).
Further support for affected employees and employers

As part of the consultation process, employers can provide the following information about support and resources available to employees being made redundant:

- affected employees and their partners have immediate access to jobactive, prior to becoming eligible for income support. Through jobactive, job seekers have access to tailored help, based on their needs. For information about jobactive eligibility and other support services available, affected employees can also access the Help for workers who have recently lost their jobs (https://www.dese.gov.au/node/6160) fact sheet.
- the ‘What’s Next’ website provides an online self-help resource for affected employees and employers. For more information, visit www.whatsnext.dese.gov.au (http://www.whatsnext.dese.gov.au/).

The Good Practice in Socially Responsible Restructuring (https://www.dese.gov.au/node/6962) guide helps employers who are considering restructuring make the best decisions for their staff and their business. The guide highlights how socially responsible restructuring can turn a stressful experience into a positive career transition for employees.

Think a mistake might have been made?

For employees:

If you’ve lost your job, contact the Fair Work Commission (the Commission) first if you think you were sacked because of:

- a reason that is harsh, unjust or unreasonable
- another protected right.

You have 21 days starting from the day after you were dismissed to lodge an application with the Fair Work Commission. Check the information at the Commission website to find out if you can apply for:


If you think you haven’t been paid everything you’re owed:

- read about Notice and final pay (www.fairwork.gov.au/Ending-employment/notice-and-final-pay/default) to find out what you should get
- see our Fixing a workplace problem (www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/default) section for practical advice on:
  - talking to your employer about fixing your notice and final pay if it’s wrong
  - getting help from us if you can’t resolve it.

For employers:

- check that the right Notice and final pay (www.fairwork.gov.au/Ending-employment/notice-and-final-pay/default) has been given
- read our Fixing a workplace problem (www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/default) section for practical advice on:
  - talking to fix any problems
  - getting help from us if you still can’t resolve it.

What to do next

- Use our Notice and Redundancy Calculator (http://calculate.fairwork.gov.au/EndingEmployment) to check termination and redundancy entitlements
- Check your Award or agreement (www.fairwork.gov.au/awards-and-agreements/default) to find more information about consultation requirements
- Find out more about Unfair dismissal (www.fairwork.gov.au/Ending-employment/unfair-dismissal)
- Go to the Services Australia website (https://www.service-
saustralia.gov.au/individuals/topics/waiting-periods/29031) for information about waiting periods that may apply before receiving income support payments.

Help for small business


You might also be interested in


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Contact us

Fair Work Online: www.fairwork.gov.au
Fair Work Infoline: 13 13 94

Need language help?
- Contact the Translating and Interpreting Service (TIS) on 13 14 50
- Hearing & speech assistance
- Call through the National Relay Service (NRS):
  - For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94
  - Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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