

# Redundancy



## What is redundancy?

Redundancy is a form of dismissal which occurs when an employer needs to reduce the size of its work force. This could be because a contract has been lost, a team is downsizing or moving location or that the role is no longer required.

When there is a genuine reason for redundancy, and employers have followed the correct procedures, employers by law, must make redundancy payments and provide notice period payments in connection with termination to employees who are selected for redundancy and who have completed at least two years' service.

## Calculating redundancy pay

The redundancy process can be a distressing time for all parties involved, therefore ensuring that the correct amounts are calculated and paid to employees is crucial to minimise any further upset.

An employee becomes eligible when they have completed two years of service.

Following two years' service there is a statutory minimum to the redundancy pay calculation, employers can be more generous. Employment matters remain devolved and, whilst broadly similar, the rules and amounts are different in Northern Ireland.

## Statutory redundancy pay

- Employees are entitled to:
  - Half a week's pay for each year where they were under 22
  - One week's pay for each full year between the age of 22 and 41
  - One and a half week's pay for each full year over the age of 41
- Length of service is capped at 20 years
- Maximum weekly rate for 2020/2021 is capped at £538 (£560 NI)
- Maximum total pay for 2020/2021 is capped at £16,140 (£16,800 NI)
- Redundancy payments (including relevant termination awards) made under £30,000 are not subject to PAYE Income Tax or National Insurance Contributions (NIC).

## When is redundancy not payable?

- The employer offers to keep the employee in employment
- Suitable alternative work is offered and the employee refuses without good reason
- The employee is dismissed for misconduct

## Notice Period

Once a redundancy consultation has finished, employers must give those employees who are being made redundant notice and agree on a leaving date. Notice periods will depend on the length of an employee's service. Contracts may offer differing notice periods however, employers must give their employees the minimum statutory notice. This does not necessarily have to be worked and can be given via a payment in lieu of notice (see below).

Length of service	Notice you must give
1 month to 2 years	At least a week
2 years to 12 years	A week's notice for every year employed
12 or more years	12 weeks

Where the employer has included a payment in lieu of notice clause in the employment contract, they can end their staff's employment with no notice allowing them to make a payment to cover the notice period they would have worked.

### **For example**

An employee has 10 years and 9 months' of continuous service, therefore, they will need to be give at least 10 weeks' notice.

Any payment that is made as a PILON is subject to PAYE Income tax and NIC and does not fall within the £30,000 tax free payment. Further details on the calculation of Income Tax and NICs due on termination payments can be found within the CIPP's [termination payments factsheet](#).

If the employer decides to make a PILON payment, employees are also entitled to be paid pension, private health care insurance or any other contractual payments for the same period that is being covered by the PILON payment.

Holiday entitlement continues to accrue whilst the employee is employed and until the effective date of termination. Where PILON is being paid and notice isn't being worked, for the period covered by the PILON, holiday entitlement no longer accrues for that period as the effective date of termination has been brought forward.

HMRC offer a calculator to help employers calculate redundancy pay. This can be found here: <https://bit.ly/3j7OvEC>

### **Redundancy calculation example**

Claire is 47 and has completed 18 full years of service. She has a weekly wage on £550 per week before Tax and NICs have been calculated.

Claire will be due 21 weeks of redundancy which is calculated as below.

The weekly amount is capped at £538 – even though Claire earns over this, this is the maximum per week she can receive.

12 years @ 1 week = £6,456

6 years @1.5 weeks = £4,842

Total redundancy payments = £11,298

Payments for redundancy under 30k are not liable to PAYE Income Tax and NIC.

## **Financial difficulty in paying redundancy payments**

If a business would become insolvent because of making the statutory redundancy payments, the Insolvency Service Redundancy Payments Service (RPS) may be able to help.

The employer would have to repay any debt as soon as possible. For further information and to gain help, employers are advised to email the Redundancy Payments Service for more information including all of the following in your email:

- The name of the enquirer
- Whether the enquirer is the employer
- The main point of contact
- The name of the business
- The business address
- Number of redundancies

## **Redundancy Payments Service**

[RPS.FA@insolvency.gov.uk](mailto:RPS.FA@insolvency.gov.uk)

## **If redundancy occurs due to insolvency**

If an employer becomes insolvent, the employer may make employees

- Redundant
- Ask them to keep working
- If the business is sold, they may be transferred to a new employer

If the employer makes them redundant, the employee will have to make a claim direct with the government for:

- A redundancy payment
- Holiday pay
- Outstanding payments like unpaid wages, overtime and commission
- Money which would have been earned whilst working a notice period ('statutory notice pay')

The person who is dealing with the insolvency (the 'insolvency practitioner' or 'official receiver') must tell the employee how their job is affected and what to do next.

They will also give the employee a:

- [RP1 fact sheet](#)
- 'CN' (case reference) number to use when applying for money owed

## Selecting employees for redundancy

The selection of employees for redundancy should be carried out in a fair and objective way. Commonly used methods include:

- Asking employees to volunteer
- Review of disciplinary records
- Review of staff appraisals, their skills, qualification, and experience

Where an employer is closing a whole operation and making all employees who work within that department redundant or only one person is being made redundant a selection process will not have to be carried out. If different roles are available, employers should make sure that the roles are offered to those at risk of redundancy. Regardless of the method used, employers should ensure that the process is in no way discriminative.

In some cases, employees may be asked to reapply for their same role as a method for the employer to make selections for redundancy. If employees are unsuccessful in this process or they do not wish to apply for the role, the employee will still be eligible for redundancy.

Selection for redundancy cannot be based on:

- Sex
- Gender reassignment
- Marital status
- Sexual orientation
- Race
- Disability
- Religion or belief
- Age
- Membership or non-membership of a trade union
- Health and safety activities
- Working pattern, for example part-time or fixed-term employees
- Maternity leave, birth, or pregnancy
- Paternity leave, parental or dependants leave
- Exercising of statutory rights
- Whistleblowing, for example making disclosures about an employer's wrongdoing
- Taking part in lawful industrial action lasting 12 weeks or less
- Acting on health and safety grounds
- Jury service
- The trustees of a company pension scheme

If an employee feels that they have been selected for any of the above reasons, the employee could claim they have been treated unfairly and the redundancy could be classed as unfair dismissal. Employees have the right to appeal a decision and they should write to the employer giving reasons.

In all cases of redundancy, employers should consult with those affected via a consultation process. Failing to do so would in effect make the process unfair and could lead to employees claiming unfair dismissal.

If employers are intending on making more than 20 employees' redundant, employers must follow the collective consultation rules within a 90-day period. For less than 20 employees there are no set rules, however it is good practice to fully consult any employee who may potentially be made redundant.

## What is a collective consultation?

When there are 20 or more employees who at risk of redundancy, the employer must:

- Notify the [Redundancy Payments Service](#) (RPS) before a consultation starts. The deadline depends on the number of proposed redundancies (see below)
- Consult with trade union representatives or elected employee representatives - or with staff directly if there are none
- Provide information to representatives or staff about the planned redundancies, giving representatives or staff enough time to consider them
- Respond to any requests for further information
- Give any affected staff termination notices showing the agreed leaving date
- Issue redundancy notices once the consultation is complete

RPS are notified by filling out a document which can be found at: <https://bit.ly/2Wcm8eq>

Depending on the number of proposed redundancies, the time frames to submit this document are different. An unlimited fine amount can be applied if employers fail to notify RPS within the time frames.

Number of proposed redundancies	When notification to RPS must be given
20 to 99	30 days before the first redundancy
100 or more	45 days before the first redundancy

Consultations have no time limit on them, however there is a minimum period that must lapse before the employer can dismiss any employee.

Number of proposed redundancies	Minimum consultation period before dismissal
20 to 99	30 days
100 or more	45 days

During the consultation process, or when employers are considering anyone for redundancy, the employer must provide the employee/employees involved, as well as their representative (if they have requested one) in writing with:

- Reasons for the redundancy
- The numbers and categories of employees involved in the process
- The numbers of employees in each category
- The plan on selecting employees for redundancy
- How will the employer carry out redundancies
- How will the employer calculate redundancy payments



For all the latest information on payroll legislation, take a look at the CIPP's *Payroll: need to know - your guide to UK payroll legislation*

Visit [cipp.org.uk/pntk](http://cipp.org.uk/pntk)