



EMPLOYER UPDATE

REDUNDANCY LAY OFF AND SHORT TIME WORKING

Unfortunately the current economic environment is forcing employers to look at saving costs which often includes a reduction in staffing levels. This may be achieved in a number of ways but the most common of these would be redundancy. Employers considering redundancy must ensure that any decision is made on objective grounds e.g. service, skill and that all other options have been considered as well. Below we outline the main areas which require consideration.

Short Time working

Where it is possible for work to be shared or done over a shorter period of time then a shortened working week may be possible. This can be done on a short week basis e.g. three day week / week on week off / half days. When on a short week employees may be entitled to claim social welfare for the full days not worked.

LayOff

A Lay Off is the temporary suspension of the contract and whilst the employee remains an employee they may seek alternative employment whilst laid off. They should be given as much notice as possible and may require a letter from the company confirming the Lay Off. It is not necessary to issue a P45 to an employee laid off unless they request it. The right to lay off should be contained in the Statement of Terms of employment or be well established through custom and practice.

Where an employee is laid off or placed on short time working or a mixture of both over a 4 week period or over six weeks within a 13 week period then the employee may elect to be made redundant. This must happen unless the employer can offer 13 weeks continuous employment within 4 weeks of the employees' request. In such a case the employee will not be entitled to notice pay.

Redundancy

Where there is a reduction in the positions in a company then that is a redundancy situation. Once a company decides that they will be

terminating positions then they must next decide who will be affected by that decision.

Before making this decision an employer should have considered the possibility of Lay Off or Short Time working. Where this is not appropriate then redundancy could be considered.

Selection

An employee who believes they have been selected unfairly for redundancy has the right to make a claim to the Employment Appeals Tribunal for unfair dismissal.

Therefore using the correct selection criteria is essential. Purely because the job that a person is doing is declared redundant does not mean that the person doing that job is the one who has to go.

Your selection criteria must be objective and not personal, that is not based on the person rather their skills. The most common criteria is "Last in First out" but this is not the only criteria that may be used. Selection can be based on skills or performance in the workplace. Where such criteria are to be used there should be some form of matrix set up to assess all those to be considered and scoring to show the basis of selection.

Alternative Employment

Where a person is being considered for redundancy alternative employment for them should also be considered. This may mean considering positions that the person could fill

even though they may have to take a drop in salary/wages. Naturally such an offer need not be accepted by the employee concerned where there is a drop in salary or status. Furthermore if the incumbent in the alternative position holds longer service then they may not be dislodged from that position to accommodate the other person with lesser service, unless there are sound objective reasons for doing so.

Consultation

Whenever a redundancy is being considered an employer will be expected to consult with the employee(s) about the decision and options open if any. The reasons for the decision and alternative employment options, if any, should be discussed. This should take place before the employee(s) is advised they are to be made redundant.

Collective Redundancies

Where there are a number of employees to be made redundant there may be a Collective Redundancy. This will arise where there are redundancies involving;

- a) at least five in an establishment normally employing more than 20 and less than 50 employees,
- b) at least ten in an establishment normally employing at least 50 but less than 100 employees,
- c) at least ten per cent of the number of employees in an establishment normally employing at least 100 but less than 300 employees, and
- d) at least 30 in an establishment normally employing 300 or more employees

Where there is a Collective Redundancy the employer must advise the employees at least 30 days before the first notice is issued of:-

- That there is going to be a Collective Redundancy
- The people who will be affected by it
- That the employees may elect a representative from amongst those affected with whom the company will consult.
- Consultations will deal with the reasons for redundancies, what other measures were considered and how people are to be selected.
- Where employees are represented already then notification will also go to the representatives.

In addition a notice must be sent to the Ministers Office advising of the Collective Redundancy, the numbers involved, the categories of staff and that consultations have commenced with the staff.

Notice

Notice of redundancy is given in accordance with the Minimum Notice and Terms of Employment Act 1973 or, where notice periods are longer under the terms of employment they will apply.

Notice must be in writing and in the case of statutory redundancy Form RP50 must be used.

Rebate

In the case of a redundancy where statutory redundancy compensation is paid this must be supported by a Form RP 50 which can be completed on line or in hard copy. The employer will then receive a 60% rebate.

**This update is provided by the MSS Personnel Support Service.
Further details on the Update or about our services may be obtained from
John Barry/ David Casey / Amy Vickers at**

**Tel: 01 8870690
Email: mssil@eircom.net
Website: www.mssirl.com**