

# Employment Law – Main Provisions

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## 1. TERMS OF EMPLOYMENT AND NOTICE

### The Employment Rights Act 1996

### The Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 as amended by the Industrial Relations (Northern Ireland) Order, 1976

#### Main Provisions

The following information explains, briefly, the main provisions of the above Statutes relating to written particulars of terms of employment but is not intended to be a strictly legal interpretation.

The Acts provide for the following terms:

- (a) Employers must give all employees, a written statement setting out their terms of employment within two calendar months after engagement;
- (b) Employees who have been continuously employed for one month or more, are given statutory rights to the length of notice upon the termination of employment;
- (c) Employees, who have been continuously employed for one month or more, are given statutory rights to minimum pay during notice.

#### 1.1 MINIMUM NOTICE

The Statutory minimum periods of notice for termination of employment are:

Period of Continuous Employment	Employer to Employee	Employee to Employer
Less than one month	One day	One day
One month but less than 2 years	One week	One week
2 years and thereafter for each year of continuous employment up to 12 years	One week for each year of continuous service	One week only
12 years or more	Twelve weeks	One week

#### 1.2 PAYMENT IN LIEU OF NOTICE

Either party may waive their right to notice or to mutually accept an agreed payment in lieu.

#### 1.3 INSTANT DISMISSAL

The Act does not affect the right of an employer to instantly dismiss, without any notice, an employee at any time for serious misconduct, including misdemeanour, or for bad workmanship. Conversely an employee may leave at any time if the behaviour of their employer justifies it. Whether there is sufficient justification on either side depends upon the circumstances of the individual case.

#### **1.4 EMPLOYEES BEING TRANSFERRED TO A NEW SITE OR JOB**

An operative employed within the terms of the JIB National Working Rules is expected by custom and practice to be transferable from one job or site to another because their place of work is the Employer's Shop.

#### **1.5 FIXED TERM CONTRACTS**

Employees who are employed on fixed-term contracts of one month or less and have been continuously employed by the employer for at least three months have the same statutory notice rights as other employees.

Note:

From 1st October 2002, a limit has been placed on the number of fixed-term contracts an employee may work under. If an employee has been continuously employed on fixed-term contracts for four years or more and is re-engaged on a fixed-term contract without continuity being broken, the new contract has effect under the law as a permanent contract unless the renewal on a fixed-term basis was objectively justified. For further information please see the Government website on Fixed-term Employment Contracts at [www.gov.uk/fixed-term-contracts](http://www.gov.uk/fixed-term-contracts).

## 2. REDUNDANCY

**The Redundancy Payments Act 1965**

**The Employment Rights Act 1996**

**The Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 as amended by the Industrial Relations (Northern Ireland) Order, 1976**

### Main Provisions

The following information explains, briefly, the main provisions of the above Statutes but is not intended to be a strictly legal interpretation.

#### 2.1 MAIN PROVISIONS

No redundancy payment is payable to an employee with less than two years' continuous service with their employer or if an employee leaves of their own accord, dies or is dismissed for reasons other than redundancy, eg inefficiency, unsuitability or for health reasons.

The dismissal must be wholly or mainly due to redundancy (as defined below) before there is any entitlement to a redundancy payment.

The Acts provide the following:

- (a) Employers pay a contribution towards a National Redundancy Fund which is included in the weekly National Insurance contribution.
- (b) Employers are required to make redundancy payments, which are not taxable, to employees according to the following scales:

Age Group (inclusive)	For each year of "Reckonable service"
Up to the age of 21	1/2 week's pay
22-40	1 week's pay
41+	1 1/2 week's pay

"Reckonable service" is calculated by working backwards from the effective date of dismissal. Only complete years (12 calendar months) count and any year during part of which the employee was in a higher age group counts towards service in the age group immediately below. Reckonable service is limited to the last 20 years before redundancy and earnings above a specified limit will not be taken into account.

*the limit on a week's pay from 6th April 2023 is £643 (England and Wales) and £669 (Northern Ireland).*

An operative is dismissed as redundant where the whole or main reason for the dismissal is that their employer's needs for employees to do work of a particular kind, or work of a particular kind in a place, have diminished or ceased.

The employer shall explore all possible alternatives of employment within the undertaking and discuss these with Unite the Union before making operatives redundant.

An employee with two years or more continuous service who is given notice of dismissal by reason of redundancy, shall be entitled before the expiration of notice to reasonable time off, with pay, during working hours to look for new employment or make arrangements for training for future employment.

In the event of the employer becoming insolvent the employee should apply for repayment to the insolvent employer's representative, liquidator, trustee, etc. who will supply the employee with a form which will enable the liquidator to apply to the Secretary of State for payment from the Redundancy Fund.

2.2 CALCULATION TABLE [see note below]

AGE SERVICE (years)																				
(years)	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
18*[1]	1																			
19	1	1½																		
20	1	1½	2																	
21	1	1½	2	2½																
22	1	1½	2	2½	3															
23	1½	2	2½	3	3½	4														
24	2	2½	3	3½	4	4½	5													
25	2	3	3½	4	4½	5	5½	6												
26	2	3	4	4½	5	5½	6	6½	7											
27	2	3	4	5	5½	6	6½	7	7½	8										
28	2	3	4	5	6	6½	7	7½	8	8½	9									
29	2	3	4	5	6	7	7½	8	8½	9	9½	10								
30	2	3	4	5	6	7	8	8½	9	9½	10	10½	11							
31	2	3	4	5	6	7	8	9	9½	10	10½	11	11½	12						
32	2	3	4	5	6	7	8	9	10	10½	11	11½	12	12½	13					
33	2	3	4	5	6	7	8	9	10	11	11½	12	12½	13	13½	14				
34	2	3	4	5	6	7	8	9	10	11	12	12½	13	13½	14	14½	15			
35	2	3	4	5	6	7	8	9	10	11	12	13	13½	14	14½	15	15½	16		
36	2	3	4	5	6	7	8	9	10	11	12	13	14	14½	15	15½	16	16½	17	
37	2	3	4	5	6	7	8	9	10	11	12	13	14	15	15½	16	16½	17	17½	
38	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	16½	17	17½	18	
39	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	17½	18	18½	
40	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	18½	19	
41	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	19½	
42	2½	3½	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	
43	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
44	3	4½	5½	6½	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	
45	3	4½	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	
46	3	4½	6	7½	8½	9½	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	
47	3	4½	6	7½	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	
48	3	4½	6	7½	9	10½	11½	12½	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	
49	3	4½	6	7½	9	10½	12	13	14	15	16	17	18	19	20	21	22	23	24	
50	3	4½	6	7½	9	10½	12	13½	14½	15½	16½	17½	18½	19½	20½	21½	22½	23½	24½	
51	3	4½	6	7½	9	10½	12	13½	15	16	17	18	19	20	21	22	23	24	25	
52	3	4½	6	7½	9	10½	12	13½	15	16½	17½	18½	19½	20½	21½	22½	23½	24½	25½	
53	3	4½	6	7½	9	10½	12	13½	15	16½	18	19	20	21	22	23	24	25	26	
54	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	20½	21½	22½	23½	24½	25½	26½	
55	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22	23	24	25	26	27	
56	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	23½	24½	25½	26½	27½	
57	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25	26	27	28	
58	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	26½	27½	28½	
59	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28	29	
60	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	29½	
61*[2]	3	4½	6	7½	9	10½	12	13½	15	16½	18	19½	21	22½	24	25½	27	28½	30	

18\* [1] – It is possible that an individual could start to build up continuous service before age 16, but this is likely to be rare, and therefore the table has been started from age 18.

61\* [2] – The same figures should be used when calculating the redundancy payment for a person aged 61 and above.

[Note: The table is for redundancies which have taken place on or after 1st October 2006. For the table prior to this date please contact the JIB's Industrial Relations Department.]

## 2.3 PROVISION FOR HANDLING REDUNDANCIES

### Handling Redundancies (Part IV Employment Protection Act 1975)

### as amended by the Trade Union Reform and Employment Rights Act 1993

and

### The Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014

#### Main Provisions

An employer proposing to make any operative redundant should begin consultation with Unite the Union at the earliest opportunity. Under the legislation:

2.3.1. The employer must begin the process of consultation in good time and in any event at least:

- (i) 30 days before the first of the dismissals takes effect in a case where between 20 and 99 redundancy dismissals are proposed at one establishment within a 90 day period;
- (ii) 45 days before the first of the dismissals takes effect in a case where 100 or more redundancy dismissals are proposed at one establishment within a 90 day period.

2.3.2. For the purposes of these Regulations the appropriate representatives of any employees are representatives of Unite the Union.

As Unite the Union is the recognised Trade Union under the JIB Agreement then employers must consult with Unite the Union and cannot consult elected representatives.

2.3.3. For the purposes of consultation the employer shall disclose *in writing* to the appropriate representatives:

- (a) the reasons for the proposals;
- (b) the numbers and descriptions of employees whom it is proposed to dismiss as redundant;
- (c) the total number of employees of any such description employed by the employer at the establishment in question;
- (d) the proposed method of selecting the employees who may be dismissed;
- (e) the proposed method of carrying out the dismissals, taking into account any agreed procedure, including the period over which the dismissals are to take effect;
- (f) the proposed method of calculating any redundancy payments, other than those required by statute, that the employer proposes to make.

The employer is under a duty to consult with the appropriate representatives of any of the employees who may be affected by the proposed dismissals or by measures taken in connection with those dismissals. This includes employees who, although not under threat of dismissal, might be directly or indirectly affected by a redundancy situation.

2.3.4. The consultation shall include ways of:

- (a) avoiding the dismissals;
- (b) reducing the number of dismissals involved; and
- (c) mitigating the effects of the dismissals.

and shall be undertaken by the employer with a view to reaching agreement with the appropriate representatives.

2.3.5. Copy of the information disclosed must be delivered to the appropriate representatives.

In the case of Unite the Union the employer *must* inform an authorised official of Unite the Union. It is recommended that this be sent to the local Regional Officer as well as to the Shop Steward(s) where appointed.

In the case where operatives made redundant from one area (in which the Shop is located) are made redundant in another area (where the site is), employers are advised to send the notification to Regional Officers in both areas.

The employer is required to allow the appropriate representatives reasonable access to their constituent employees and to such accommodation and other facilities as is appropriate.

Where an employer fails to meet the requirement to inform and consult in accordance with the statutory provisions, Unite the Union may make a claim for a Protective Award. This is subject to an upper limit of 90 days pay per protected employee (ie employees whom the employer plans to dismiss or has already dismissed as redundant and they must be employees in whose case the employer has failed to comply with the information and consultation requirements).

2.3.6. There may be special circumstances where it is not reasonably practicable for an employer to fully meet the requirements for minimum consultation periods or disclosure of information. In such circumstances employers must do all that is reasonably practicable towards meeting the requirements.

It does *not* count as "special circumstances" for these purposes if the decision leading to the redundancies was taken by a controlling body (eg a head office or parent Company) that had not supplied the necessary information or had not supplied it in time.

2.3.7. An employer who proposes to dismiss 20 or more employees at one establishment within a 90 day period has a statutory duty to notify the Secretary of State for the Department for Business Innovation and Skills. A notification must be made before the first dismissal takes effect. The minimum times are:

- (i) If between 20 and 99 employees may be dismissed as redundant at one establishment within a 90 day period, the minimum notice time is at least 30 days; and
- (ii) if 100 or more employees may be dismissed as redundant at one establishment within a 90 day period, the minimum notice time is at least 45 days.

These periods are the same as the minimum periods permitted for consultation with appropriate representatives.

The Redundancy Payments Service, acting on behalf of the Department for Business, Energy and Industrial Strategy, requires information in writing about the employer's proposals. Employers may notify by letter or, as is more common, by the HR1 form. The notification should be sent by post or by hand to the office indicated on the form. Copy of the notification must be given or sent to the appropriate representatives.