



## Notice of Termination & Redundancy Pay

Under “Workchoices” basic employment rights were slashed to a handful of minimum conditions.

Most employees had no protection from unfair dismissal, and employees could be made redundant without receiving any severance pay. The Fair Work Act has introduced a new minimum statutory entitlement to redundancy pay.

### Overview

The NES establishes the minimum period of notice, or payment in lieu of notice, that your employer must give you when you are dismissed. Unlike other NES, the provisions about notice of termination apply to all employees (other than casuals), not just those covered by the national workplace relations system.

The NES also set out when redundancy pay may apply to you if you are dismissed. The redundancy entitlement under the NES only applies to employees covered by the national workplace relations system.

### NOTICE OF TERMINATION

Your employer must not terminate your employment unless they have given you **written notice** of the day of termination. This can be done by:

- Delivering it personally
- Leaving at your last known address
- Sending it by pre-paid post to your last known address;

If you are dismissed, your employer needs to provide you with either of the following:

- the minimum period of notice (see table below) or
- Pay you in lieu of notice. at the full rate of pay for at least the hours you would have

worked had your employment continued until the end of the minimum period of notice.

Your full rate of pay is the rate of pay payable to you, including all the following:

- Incentive-based payments and bonuses
- Loadings and/or monetary allowances
- Overtime or penalty rates
- Any other separately identifiable amounts.

If you are over 45 years old, and have completed at least two years of service at the end of the day notice is given, you are entitled to receive an additional week notice. The minimum notice applies to all employees employed in Australia (unless the exception applies – see below).

Employee’s period of continuous service with the employer at the end of the day the notice is given	Period
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

### Exceptions to notice of termination

Your employer does not need to provide notice of termination (or payment in lieu of notice) if any of the following applies to you:

- You are employed for a specific period of time or specified task (fixed-term)
- You were dismissed for serious misconduct (e.g. fraud, theft, assault, etc)
- You are a casual employee
- You are under a training arrangement (other than an apprentice) for a specified time.



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### REDUNDANCY PAY

You are entitled to redundancy pay if you are dismissed because your employer no longer requires the job to be performed by you (or anyone else), or because your employer is insolvent or bankrupt.

The amount of redundancy pay equals the total amount payable to you for the redundancy pay period worked out at your 'base rate of pay' for ordinary hours worked. This does not include any incentive-based payments and bonuses, loadings, monetary allowances, overtime or penalty rates, etc.

If your employer is a small business (less than 15 employees) then you will not be entitled to redundancy payments upon termination. Furthermore, if you have worked for less than 12 months of continuous service, you will not be entitled to redundancy payments. Casuals and fixed-term employees will also not receive this benefit.

Employee's period of continuous service with the employer at the end of the day the notice is given	Period
At least 1 year but less than 2 years	4 weeks
At least 2 year but less than 3 years	6 weeks
At least 3 year but less than 4 years	7 weeks
At least 4 year but less than 5 years	8 weeks
At least 5 year but less than 6 years	10 weeks
At least 6 year but less than 7 years	11 weeks
At least 7 year but less than 8 years	13 weeks
At least 8 year but less than 9 years	14 weeks
At least 9 year but less than 10 years	16 weeks
At least 10 years*	12 weeks

\*there is reduction in redundancy pay from 16 weeks to 12 weeks for employees with at least 10 years continuous service. This is consistent with the AIRC 2004 Redundancy Case decision.

### Other relevant issues

If your employer has recently sold or transferred its business, your period of service may be carried over.

If you have a workplace agreement, you may be entitled to more redundancy pay

If your business has been taken over or you have recently moved from the States Industrial Relations System to the Federal System, you may have some preserved additional redundancy pay. For further details, please contact LHMU for specific advice for your circumstances.

### Contact us

For more information on any of these topics, please see the other United Voice fact sheets. If you are unsure or require further advice, please contact your union delegate or call United Voice Member Assist on 3291 4600 or 1800 065 885 outside of the Brisbane area. Alternatively you can now lodge a request for information or assistance at [www.memberassist.org.au](http://www.memberassist.org.au)

