



Comparison of Redundancy Legislation ROI v GB

We continue our series of comparison between Great Britain (GB) and the Republic of Ireland (ROI). In this article we will summarise the key differences with redundancy requirements in GB and Ireland. It is vital that employers get appropriate legal advice in advance of putting any roles at risk of redundancy, as there are various timelines and other considerations that must be addressed.



Statutory Protection

Parts X and XI of the Employment Rights Act 1996 and Chapter II of Part IV of the Trade Union and Labour Relations (Consolidation) Act ("TULRCA") 1992

Unfair Dismissals Act 1977 as amended ("UD Acts"), The Protection of Employment Acts 1977 - 2024 ("PEA 24") and the Redundancy Payments Acts 1967 as amended ("Redundancy Acts")



What is Redundancy?

If the dismissal is wholly or mainly attributable to—

- (a) the fact that the employer has ceased or intends to cease—
 - (i) to carry on the business for the purposes of which the employee was employed by him, or
 - (ii) to carry on that business in the place where the employee was so employed, or
- (b) the fact that the requirements of that business—
 - (i) for employees to carry out work of a particular kind, or
 - (ii) for employees to carry out work of a particular kind in the place where the employee was employed by the employer, have ceased or diminished or are expected to cease or diminish.

If the dismissal is attributable wholly or mainly to—

- (a) the fact that the employer has ceased, or intends to cease to carry on the business for the purposes of which the employee was employed by him, or has ceased or intends to cease, to carry on that business in the place where the employee was so employed, or
- (b) the fact that the requirements of that business for employees to carry out work of a particular kind in the place where he was so employed have ceased or diminished or are expected to cease or diminish, or
- (c) the fact that his employer has decided to carry on the business with fewer or no employees, whether by requiring the work for which the employee had been



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employed (or had been doing before his dismissal) to be done by other employees or otherwise, or

- (d) employer has decided that the work for which the employee had been employed (or had been doing before his dismissal) should henceforward be done in a different manner for which the employee is not sufficiently qualified or trained, or
- (e) the fact that the employer has decided that the work for which the employee had been employed (or had been doing before his dismissal) should henceforward be done by a person who is also capable of doing other work for which the employee is not sufficiently qualified or trained.



- At least 2 years' service

- At least 104 weeks (2 years) service, excluding any period of employment with that employer before the age of 16 years
- employment must be fully insurable under the Social Welfare Acts.



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Entitlements

Statutory redundancy payment:

- **1.5 weeks' pay** for each complete year of service in which the employee was aged 41 or over at the start of the year
- **1 week's pay** for each complete year of service in which the employee was aged between 22 and 40 at the start of the year
- **0.5 week's pay** for each complete year of service in which the employee was aged under 22 for any part of the year

Note: Payment capped at 20 years. If an employee has more than 20 years' service, the earlier years are ignored. The maximum weekly amount is currently capped at £719.

Redundancy Notice payment:

An employee is entitled to their statutory notice based on their length of service or the notice as per their contract of employment, whichever is longer.

Note: An employee may be disentitled to redundancy payment because of an unreasonable refusal to accept suitable alternative employment.

Statutory redundancy payment:

- Two weeks normal weekly remuneration for every year of service, plus a bonus week.
- Based on length of reckonable service and capped at €600 per week.

Redundancy Notice payment:

An employee is entitled to their statutory notice based on their length of service or the notice as per their contract of employment, whichever is longer.

Note: An employee may be disentitled to redundancy payment because of dismissal for misconduct and/or refusal to accept alternative employment.



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Employer Obligations

Under TULRCA 1992, employers have statutory duties for collective consultation (see below). These apply in addition to the requirements for individual redundancies.

Where collective consultation is not required, there are no specific statutory requirements for the consultation process. However, case law has set out the following obligations:

1. Genuine Redundancy
2. Fair process i.e. conducting an individual consultation process
3. Fair selection for employees doing the same or similar work.

Under the PEA 24, employers have statutory duties for collective consultation (see below). These apply in addition to the requirements for individual redundancies.

There are no obligations under statute but case law has set out the following obligations:

1. Genuine Redundancy
2. Fair process i.e. conducting an individual consultation process
3. Fair selection for employees doing the same or similar work.



Consultation Process

An employer must meaningfully engage with the proposed employees provisionally selected for redundancy, to determine whether there are any alternatives to the redundancy, give the employees the opportunity to challenge their selection, and consider any alternative roles that may be available.

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	<p>The consultation process generally consists of 3-4 meetings including the at-risk meeting and consultation meetings. If no alternative positions are identified then the outcome will issue informing the employee their role is redundant and giving them notice of termination of employment. It is best practice to offer an opportunity to appeal their redundancy.</p>	<p>The consultation process generally consists of 3-4 meetings including the at-risk meeting and consultation meetings. If no alternative positions are identified then the outcome will issue informing the employee their role is redundant and giving them notice of termination of employment. It is best practice to offer the employee an opportunity to appeal their redundancy.</p>
 <p>What is a Collective Redundancy?</p>	<p>Collective redundancies arise where, within a period of 90 days or less, there are 20 or more redundancies proposed in one establishment (not necessarily in your organisation as a whole, which may be made up of several distinct establishments).</p>	<p>Collective redundancies arise where, during any period of 30 consecutive days, the number of proposed redundancies is:</p> <ul style="list-style-type: none"> ○ 5 or more employees, where 21-49 are normally employed in an establishment ○ 10 or more employees where 50-99 are normally employed in an establishment ○ 10% or more of the employees where 100-299 are employed in an establishment ○ 30 or more employees where 300 or more are employed in an establishment



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Additional Obligations - Collective Redundancy

- Information and consultation process to be held with the appropriate employee representatives; and
- duty to notify the Secretary of State about planned redundancies using Form HR1.

The above must be started or given (as appropriate) at least:

- 30 days before the first dismissal, if there are between 20 and 99 (inclusive) proposed redundancies
- 45 days before the first dismissal, if there are 100 or more proposed redundancies.

- Information and consultation process to be held with the employees' representatives within 30 days; and
- obligation to notify the Minister for Enterprise, Trade and Employment of the proposed redundancies at least 30 days before they take effect.



Remedies

Unfair Dismissal claim ("UD claim")

Claim to the Employment Tribunal
Continuous Service: 2 years

Awards:

- Basic: Calculated in same way as statutory redundancy payment, but cancelled out if statutory redundancy payment has been made

Unfair Dismissal claim ("UD claim")

Claim to Workplace Relations Commission ("WRC")

Continuous Service: 1 year

Award: Up to 2 years' remuneration but the award is limited to employees loss of earnings



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- Compensatory: Up to the lower of 1 years' gross pay or £118,223

Time limit: 3 months from the date of dismissal (subject to any extension for early conciliation or as permitted by Tribunal).

Non-payment of statutory redundancy payment claim

Claim to the Employment Tribunal. (If the employer refuses to pay after this, employee may apply to Secretary of State under the National Insurance Fund)

Service: 2 years' service

Award: Statutory redundancy payment (see above)

Time limit: 6 months (less 1 day) from date of redundancy (subject to any extension for early conciliation or as permitted by Tribunal).

Time limit: 6 months from the date of dismissal (which can be extended to 12 months by the WRC for reasonable case)

Non-payment of statutory redundancy payment claim

Claim to the WRC (If the employer is unable to pay, employee may apply to the Department of Social Protection)

Service: 2 years' service

Award: Statutory redundancy payment entitlement (see above)

Time limit: 12 months from date of redundancy (which can be extended to 24 months by the WRC for reasonable cause)

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