



Moving from state to federal systems

Redundancy

Termination of an employee's employment as a result of economic, technological or structural change to the employer's business is commonly known as redundancy. This usually occurs because the work done by that employee's position is no longer required, and therefore the employee's position is surplus to the operational requirements of the business.

Federal entitlements

Federal awards and agreements generally contain provisions in relation to redundancy that may include entitlements to severance pay. Severance pay is paid upon an employee being made redundant, i.e. the employee's employment being terminated as a result of redundancy. Depending on the wording of the redundancy clause, an employee whose position is redundant and who obtains suitable alternative employment either with the same employer or with a new employer may not be entitled to severance pay.

Severance pay

The amount of severance pay depends on an employee's years of service, see the table opposite. For example, the federal award standard for severance pay is generally as set out in the table in the next column.

Period of Continuous Employment	Severance Pay *
1 year or less	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	6 weeks
3 years and less than 4 years	7 weeks
4 years and less than 5 years	8 weeks
5 years and less than 6 years	10 weeks
6 years and less than 7 years	11 weeks
7 years and less than 8 years	13 weeks
8 years and less than 9 years	14 weeks
9 years and less than 10 years	16 weeks
10 years or more	12 weeks

* ordinary time rate of pay

A reduced severance pay standard applies for employers who employ less than 15 employees. This is a new standard introduced in 2004 and therefore the award should be checked for the actual severance pay scale.

Please note that this information has been provided by the Employment Advocate pursuant to s83BB (1) of the *Workplace Relations Act 1996*. It has been provided by the Employment Advocate and the Tasmanian Chamber of Commerce & Industry by way of general guidance only and it is recommended that you obtain your own particular advice or other expert assistance relevant to your particular circumstances. You should not rely upon this information as a basis for action that may expose you to a legal liability, injury, loss or damage.

Period of notice

In addition to severance pay, employees are generally entitled to a period of notice prior to being made redundant. The federal *Workplace Relations Act 1996* sets out the notice periods in relation to most types of termination. There is an additional week for employees over 45 years of age with a minimum of two years continuous service.

This Act does not deal with redundancy pay.

Period of Continuous Service	Period of Notice
1 year or less	At least 1 week
1 year and up to 3 years	At least 2 week
3 years and up to 5 years	At least 3 week
More than 5 years	At least 4 week

State entitlements

State awards do not provide for redundancy entitlements. However, under the state act a former employee may make an application to the Tasmanian Industrial Commission (TIC) with regard to a dispute dealing with severance pay. Each case will be heard on its merits and the TIC is able to make an order in relation to severance payments.

Unlike the latest 2004 federal award severance pay standard, which is generally capped at a maximum of twelve weeks, the entitlement under the state act is not necessarily capped as TIC decisions indicate that the amount of severance pay is based on an 'each case on its merits' approach.

Moving to an AWA

If an Australian workplace agreement (AWA) covers redundancy, a dispute in relation to an AWA redundancy clause could be dealt with by the Australian Industrial Relations Commission (AIRC), if the AWA dispute resolution process allowed parties to refer the dispute to the AIRC. If the employer is respondent to a federal award that deals with redundancy, a dispute relating to severance pay can be heard by the AIRC. If the AWA is silent on the issue of redundancy, and the employer would normally be covered by a state award, the TIC has found that it has the power to settle a dispute relating to severance pay.

**To find out more
about AWAs go to:
www.oea.gov.au**

For further advice, contact:

TCCI Workplace Relations Division
Phone: 03 62363636