

NOWACTUALLY

FACT SHEET

# Redundancies Done Right

A GUIDE FOR EMPLOYERS



# Redundancies Done Right

## A Guide for Employers [2025]

### What is redundancy?

A redundancy happens when an employer no longer needs a particular role to be performed by anyone because of genuine operational changes in the business.

It's about the job no longer being required, not the person who holds it.

Common reasons for redundancies being done include:

- Business restructure or change in direction
- Economic downturn or financial hardship
- Introduction of new technology or automation
- Sale, merger, or closure of the business

When handled correctly, redundancies protect your business and support your people through change. Handled poorly, they can create **legal, financial, and emotional risk**.

### What makes a redundancy genuine

Under the Fair Work Act 2009 (Cth), a redundancy is only genuine when all of the following apply:

1. The employer no longer needs anyone to do the employee's job.
2. The employer has complied with any consultation obligations under the applicable Modern Award or Enterprise Agreement.
3. The employer has **genuinely considered redeployment** within the business and any associated entities.

If a redundancy is not genuine, the termination may be considered unfair dismissal under section 385 of the Fair Work Act.

### New development: considering contractor roles

Following the High Court's 2025 decision in *Helensburgh Coal Pty Ltd v Bartley*, redeployment now also includes considering work currently performed by contractors, where it would be reasonable to bring that work in-house and assign it to the affected employee.

This means that employers must think about whether:

- The redundant employee could reasonably perform duties currently outsourced to a contractor; and
- Adjusting or ending a contractor arrangement would be practical and commercially reasonable.

The law does not require employers to overhaul their business model or make unrealistic changes. The Fair Work Commission will look at what's *reasonable in the circumstances*, including the employee's skills, the cost or disruption to the business, and the genuine need for the contractor's work to continue.

### Legal obligations for employers

Employers must meet minimum standards set out in the National Employment Standards (NES), which include:

- **Notice of termination:** 1-5 weeks' notice (or pay in lieu), depending on length of service and age.
- **Redundancy pay:** 4-16 weeks' pay, depending on years of continuous service.
- **Other entitlements:** Payment of accrued annual leave, long service leave, and superannuation up to the last day of employment.

### Redundancy pay exemptions

Redundancy pay is not required for:

- Small businesses with fewer than 15 employees
- Employees with less than 12 months' service
- Casual employees
- Employees whose contract or Award excludes redundancy pay



### Before making a redundancy decision

Before making a decision, take time to step back and assess:

- **Business need:** Is the change essential, or can costs be managed another way?
- **Alternatives:** Could redeployment, reduced hours, or temporary stand down avoid redundancy?
- **Consultation obligations:** Are you required to consult employees under an Award or Agreement before final decisions?
- **Contractor review:** Are there contractor roles that could reasonably be reassigned to avoid redundancy?
- **Timing and communication:** How will you manage messaging and support for affected and remaining staff?

Good planning reduces both legal and human risk to your business.

### The consequences of getting it wrong

If redundancies are not genuine or managed lawfully, employers may face:

- Unfair dismissal or general protections claims in the Fair Work Commission
- Compensation or reinstatement orders
- Reputational damage affecting staff morale and future recruitment
- Emotional distress for employees and business leaders alike

Even genuine redundancies can go wrong if the process lacks transparency or empathy.

### ● Best practice tips for employers

- Plan carefully, and don't rush decisions when it comes to redundancies
- Keep documentation of all discussions and decisions.
- Communicate clearly and respectfully throughout the entire process.
- Consider the well-being of those affected.
- Seek advice from HR or legal professionals before taking final action.

A fair, lawful process helps preserve trust and integrity through difficult times and tough decisions.

### ● Need support?

Redundancies are complex and emotionally charged, but they can be managed confidently with the right support.

Partner with Now Actually to:

- Confirm your redundancy is genuine and legally compliant
- Review consultation and redeployment obligations (including contractor roles)
- Prepare tailored letters, scripts, and documentation that protect your business and your people

**Get it right from the start with clear, compliant, and people-first advice.**

**[Book A Discovery Call](#)**