



# TERMINATION OF EMPLOYMENT GUIDE



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# Termination of Employment Guide

## Introduction

The Termination of Employment legislation was enacted on 27 May 1967 and entered into force on 1<sup>st</sup> February 1968. Its main purpose is to protect the employees in the case of termination of their employment.

## Persons covered by the legislation

The Termination of Employment legislation covers **all employees of the public and private sector, including apprentices**. It also covers shareholders of private companies who are employed by their companies. Employees of the Government of the United Kingdom and the Navy, Army and the Air Force Institutions (N.A.A.F.I.) in Cyprus are not covered by the provisions of the legislation relating to payments due to redundancy, since their employers apply different schemes for such payments.

## Obligation of the employer

An employer who intends to terminate the employment of his employee, after the period of at least 26 weeks, should give a minimum period of notice, depending on the employee's employment as shown below:

| Period of continuous employment | Minimum period of notice |
|---------------------------------|--------------------------|
| From 26 to 51 weeks             | 1 week                   |
| From 52 to 103 weeks            | 2 weeks                  |
| From 104 to 155 weeks           | 4 weeks                  |
| From 156 to 207 weeks           | 5 weeks                  |
| From 208 to 259 weeks           | 6 weeks                  |

|                       |         |
|-----------------------|---------|
| From 260 to 311 weeks | 7 weeks |
| From 312 and over     | 8 weeks |

## The period of notice must be in writing.

The right of the employee to a longer period, if he has such a right under any custom, law, collective agreement or other arrangement, is safeguarded by the legislation.

The employer is not obliged to give a period of notice if the employment of the employee was on a probationary basis for a period that does not exceed 104 weeks. When the probationary period is higher than 26 weeks, the employer is not obliged to give notice to the employee if the probationary period was determined by a written agreement between the employer and the employee at the time of employment.

The employer instead of giving notice to the employee has the right to pay him his wages for the period of notice he is entitled to.

During the period of notice, after agreement with the employer, the employee can be entitled to time off (not exceeding 8 hours per week) during normal working hours, not exceeding 40 hours, in order to be able to seek new employment, without loss of pay.

An employee who is given notice by an employer has the right, if he receives an offer of new employment from another employer during the period of notice, to leave the employment of his employer without further notice in order to take up the new employment. In such a case, however, the employee loses his entitlement to payment for the remaining of the period on notice.

An employer cannot give notice to an employee who is absent from work due to incapacity for work for a period of up to six months from the first day of his absence. Furthermore, the period of notice of an employee who becomes incapable for work as a result of an employment accident which occurs during the period of notice, is suspended.

The terms 'incapable for work' and 'employment accident' are given the same meaning as those in the Social Insurance legislation.

### An employer can dismiss an employee without notice in the cases of:

- a serious offence by the employee in the course of his duty;
- a criminal offence without the agreement, expresses or implied consent by his employer;
- improper behaviour by the employee in the course of his duties; and
- serious or repeated violation or disregard of work regulations or other rules in relation to the employment.

If the employer does not exercise his right of dismissal within a reasonable period following the matter which gave rise to this right, the dismissal may be considered as unlawful.

### Obligation of the employer to give notice for transfer of an employee

An employer who intends to transfer an employee to another employer, either permanently or temporarily, **should give him as early as possible notice in writing of his intention to transfer him**, even if the transfer does not involve a change of the employee's duties or place of work.

### Obligation of the employer to give notice to his employer

An employee, who intends to terminate his employment, should give his employer a **minimum period of notice** depending on the period of his employment as shown below:

| Period of continuous employment | Minimum period of notice |
|---------------------------------|--------------------------|
| From 26 to 51 weeks             | 1 week                   |
| From 52 to 259 weeks            | 2 weeks                  |
| From 260 and over               | 3 weeks                  |

The right of the employer to a longer period of notice, if he has such a right under any custom, law, collective agreement or other arrangement, is safeguarded by the legislation.

### Compensation by the employer

An employee who is dismissed unlawfully by an employer, with whom he has been continuously employed for not less than 26 weeks, has a right to compensation payable by the employer. An employee is also entitled to compensation in the case where he terminates his employment due to the behavior of the employer against him. An employee is not entitled to compensation for termination of employment if before the date of termination of his employment he has attained the pensionable age.

**The compensation which is decided by the Industrial Disputes Court, after the employee submits an application form**, cannot be lower than the redundancy payment to which the employee would be entitled if his employment was terminated due to redundancy or higher than the wages of two years. For the calculation of the compensation, the Industrial Disputes Court takes into consideration, among others, the earnings of the employee, the period of employment, the loss of career prospects, the age of the employee and the conditions under which he was dismissed.

The amount of compensation up to the wages of one year is payable by the employer and any additional amount from the Redundancy Fund.

## When an employee is not entitled to compensation by his employer

**An employee is not entitled to compensation from his employer, if his dismissal is due to:**

- redundancy;
- force majeure, act of war, civil insurrection, act of God or destruction of the plant by fire not due to deliberate or negligent of the employer;
- termination at the end of fixed term contract or due to the fact that the employee reached the retirement age under any custom, law, collective agreement or other work arrangements;
- failure on the part of employee to carry out his work in a reasonably efficient manner, or behaves in a manner that gives the right to the employer to terminate the employment of the employee without notice.

**The following reasons do not constitute valid reasons for termination of employment of an employee and the employer is obliged to pay compensation:**

- membership of a trade union or participation in corporatist activities outside working hours or, with the consent of the employer during working hours or membership safety committee under the Safety at work Laws;
- quest tenure as representative of workers or current or past operations in that role;
- submission of a complaint or participation in proceedings against an employer for being involved in alleged violation of laws or regulations, or recourse to a competent administrative authority;
- race, colour, sex, marital status, religion, political opinion, national origin or social origin;
- pregnancy or maternity; and
- parental leave or leave on grounds of force majeure.

## Power of the Industrial Disputes Court to order reinstatement of an employee

In the case where the termination of employment of an employee, who has been working for an employer who employed more than nineteen employees, is considered as unlawful, the Industrial Disputes Court may **order reinstatement if in the case its opinion is justified by the circumstances and the employee has asked for this remedy. Together with the reinstatement the Court may order the payment of compensation** for any real damages the employee has suffered as a result of his dismissal. The amount of the compensation cannot exceed the wages of twelve months.

## Right of employee to redundancy payment

In the case where the employment of an employee, who has been continuously employed for 104 weeks by the same employer, is terminated because of redundancy, he is entitled to redundancy payment from the Redundancy Fund.

It is noted that in the case of the employment of a part worker by more than one employer it is considered as employment by the same employer.

Moreover, it is noted that the employment of a seasonal worker who is employed every year by the same employer and his yearly average of employment in the same employer is at least 15 weeks, is considered continuous.

When an employee is considered to be redundant

**An employee is redundant when his employment has been terminated:**

- a. because the employer has ceased or intends to cease to carry on the business in which the employee was employed;
- b. because the employer has ceased or intends to cease to carry on business in the place in which the employee was employed;
- c. because of the following other reasons concerned with the operation of the business:
  - modernisation, mechanisation or any other change in methods of production or of organisation which reduces the necessary number of employees;
  - change in the products or in production methods or in the skills needed on the part of employees;
  - closing of departments;
  - marketing or credit difficulties;
  - lack of orders or raw materials;
  - scarcity of means of production;
  - contraction of the volume of work or business.

Dismissal which does not give the right to redundancy payment

**An employee is not entitled to redundancy payment even if the dismissal is due to redundancy:**

- a. if before terminating the employment of the employee, the employer makes an offer of suitable alternative employment and the employee unreasonably refuses this offer;
- b. if the dismissal was effected because of the transfer of the business as a going concern to a new employer who renewed the employment agreement;
- c. if the employer is a company registered in accordance with the provisions of the Companies Act and transfers the employee to a suitable employment in another company which is connected/related to the company in which he is employed. Two companies are considered as connected, if the one is subsidiary of the other, or if both companies are subsidiaries of a third company. The term subsidiary company is given the same meaning as that in article 148 of the Companies Act (Cap.113 and Amendment Laws); and
- d. if before the termination of the employment, another employer who is a company in which the previous employer is a major shareholder or exercises effective control, offers the employee suitable employment.

Amount of redundancy payment

**The amount of redundancy payment is calculated on the basis of the employee's service and his/her last wages as follows:**

| Period of continuous employment | Amount of redundancy payment                                         |
|---------------------------------|----------------------------------------------------------------------|
| Up to 4 years                   | 2 weeks wages for each continuous period of employment of 52 weeks   |
| Above 4 and until 10 years      | 2 ½ weeks wages for each continuous period of employment of 52 weeks |
| Above 10 and until 15 years     | 3 weeks wages for each continuous period of employment of 52 weeks   |
| Above 15 and until 20 years     | 3 ½ weeks wages for each continuous period of employment of 52 weeks |
| Above 20 and until 25 years     | 4 weeks wages for each continuous period of employment of 52 weeks   |

In the case of a claimant who is a shareholder of a private company and who is employed in his/her company but not on the basis of a contract of service or under circumstances an employer and employee relationship may be inferred, the payment he/she is allowed is equal to 1% of his weekly wage, multiplied by 52 and by the years of service.

It is noted that if the total period of continuous employment is not an integer number of years, the rest period of employment of 26 or more weeks is considered as a whole year of employment.

When the redundant employee completes the age of 64, the redundancy payment is reduced by 1/12 for every completed month above the age of 64.

## Payment from the employer and the Redundancy Fund

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In case that the employee is simultaneously entitled to payment out of the Redundancy Fund and payment by his employer by reason of custom, law, collective agreement, contract or otherwise, the employee is paid the whole amount from the Redundancy Fund and from the employer any difference between the two payments, if the whole amount of payment from the employer is higher than the amount from the Fund.

It is noted that, payment from the Provident Fund is not considered as a payment from the employer.

## Calculation of period of employment

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The period of employment is calculated in weeks.

### **The following weeks are taken into consideration:**

- a. a week during which the employee has worked 18 hours or more;
- b. a week during which the employee:
  - was incapable for work because of sickness, occupational injury or disease or maternity;
  - was absent from work because of temporary cessation of work;
  - was absent from work in circumstances such that by arrangement, custom or law, the employer and employee relationship is considered by the Industrial Disputes Court as being continuous;
  - was absent from work on parental leave.

It is noted that in the case of seasonal workers, only the weeks of real employment, for the calculation of the period of employment are taken into consideration.

**The general rule is that only the period of employment with the employer who terminates the employment of the employee is taken into consideration.** Exception to this rule is the case where the business of an employer is transferred to another employer as a going concern or an employee is transferred from one business to another, which is connected with the business he was employed, or an employee is transferred from one business to another which is controlled by the same persons. In such cases is taken into consideration the employment of the employee to both employers.

Exceptions are also those cases which are covered by special provisions of the legislation which were enacted with the purpose to provide protection to the employees who lost their employment due to the Turkish invasion. Based on these provisions and under certain circumstances, the time period from 15 July 1974 up to 3 October 1976, as well as the service of the employee with an employer on 14.7.1974, are calculated as period of employment for the purpose of redundancy payment.

It is noted that in no case the period of employment before 1.1.1964 is taken into consideration for the purpose of redundancy payment.

## Continuity of employment

**The period which is taken into consideration for the purpose of payment not only should be with the same employer but, also, it needs to be continuous.**  
**The continuity of employment is not broken by any of the following:**

- absence from work due to service in the National Guard;
- absence from work due to trade disputes;
- absence from work because of temporary cessation of work;
- absence from work because of sickness, occupational injury or disease and maternity;
- change of employer when the business is transferred as a going concern or a section of the business, from one employer to another;
- absence from work on holiday paid or unpaid;
- absence from work due to force majeure or act of war or civil insurrection or act of God;
- absence from work because of employment abroad in a business which is mainly or wholly owned by the same employer;
- absence from work in circumstances such that by arrangement or custom or law the employer-employee relationship is considered by the Industrial Disputes Court to be continuous;
- absence from work because of parental leave.

## Wages which are taken into consideration for the purpose of payment

For the purpose of payment, in case an employee works for a fixed wage, **the last wage before the termination of employment is taken into consideration**. In case the employee has no fixed wage, but he is paid for example with commissions according to the work done, the wage which is taken into consideration is the average weekly earnings in the last 12 weeks before the termination of his employment.

It is noted that, for the purpose of redundancy payment wages higher than four times the weekly amount of the basic insurable earnings, as determined according to the Social Insurance legislation, are not taken into consideration.

## Redundancy Fund

All redundancy payments are paid out of the Redundancy Fund.

The Fund is financed entirely by employer's contributions. The rate of contribution is 1,2% on employees earnings up to a maximum amount which is fixed every year. The earnings include the basic salary, the cost of living allowance, commissions, the 13<sup>th</sup> and 14<sup>th</sup> salary or the wages of 53<sup>rd</sup> to 56<sup>th</sup> week, overtimes, the shift allowances, the service allowance and the contributions of the employer to the Central Holiday Fund and the Trade Unions' Leave Funds.

For the purpose of payment of contributions gross earnings are taken into consideration, i.e. before the deduction of taxes, contributions or other deductions.

The contributions to the Redundancy Fund are payable together with the Social Insurance contributions.

## Compensation Procedure

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In case of unlawful dismissal **the employee should submit a claim on a specific application form at the Industrial Disputes Court**, at least within 12 months from the day of his dismissal or within 9 months from the reply of the Redundancy Fund.

## Redundancy payment procedure

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In case for payment from the Redundancy Fund the employee should submit a claim on a specific application form (SIS 600), which he can obtain from any Social Insurance District Office or Citizen Service Centre.

The application form should be submitted at any Social Insurance District Office or Citizen Service Centre within three months from the day of the dismissal of the employee. However, in cases where the claimant proves that there was a good cause for the delay of submission of the application form, the payment can be made if the application form is submitted within twelve months from the day of his dismissal.

## Method of redundancy payment

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Redundancy payment is made through a transfer at a bank account of the beneficiary.

## Obligation of the employer for notification of redundancy

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An employer who intends to terminate the employment of his employees due to redundancy, **is obliged to give an advance notice (SIS 608) of at least one month, to the Minister of Labour and Social Insurance** and declare the number of employees likely to become redundant, the branch or branches of the business to be affected by the redundancy, the names, the occupations and the family responsibilities of the affected employees and the reasons for redundancy.

## Obligation of the employer for rehiring the employees whose employment was terminated due to redundancy

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**If within 8 months of redundancies, an employer decides to increase his workforce, he should give priority to the re-engagement or redundant employees, subject to the operational needs of the business.**

## Offences concerning redundancy payments

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Any person, who knowingly or recklessly makes a claim for a payment from the Fund which is false, or who knowingly or recklessly makes false statement in connection with a claim, **is guilty of an offence and is liable on conviction to a fine or to imprisonment up to 6 months or both.**

Any person who helps another person to the above offences is subject to the same sanctions.

## Industrial Disputes

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The Industrial Disputes Court has exclusive jurisdiction to adjudicate on all industrial Disputes arising out of the application of the legislation. The Industrial Disputes Court consists of a chairman who is legally qualified and appointed by the Supreme Judicial Council and of two members representing the employers and the employees respectively. The members are nominated for each case by the President of the Court from the schedule prepared by the Minister of Labour and Social Insurance, in consultations with the employers' and employees' organisations.

For more information you can visit the Social Insurance Services' website  
[www.mlsi.gov.cy/sid](http://www.mlsi.gov.cy/sid)

or contact the telephones below:

|                                                         |          |                                               |          |
|---------------------------------------------------------|----------|-----------------------------------------------|----------|
| Head Offices:                                           | 22401600 |                                               |          |
| Social Insurance District Office<br>of Lefkosia:        | 22409710 | Citizens' Service Centre<br>Lefkosia:         | 22446686 |
| Social Insurance Office<br>of Agios Andreas (Lefkosia): | 22878085 | Citizens' Service Centre<br>Lemesos:          | 25829129 |
| Social Insurance District Office<br>of Lemesos:         | 25804319 | Citizens' Service Centre<br>Larnaka:          | 24815555 |
| Social Insurance District Office<br>of Larnaka:         | 24805201 | Citizens' Service Centre<br>Pafos:            | 26822400 |
| Social Insurance District Office<br>of Pafos:           | 26821242 | Citizens' Service Centre<br>Ammochostos:      | 23300300 |
| Social Insurance Office<br>of Polis Chrysochou:         | 26321532 | Citizens' Service Centre<br>Polis Chrysochou: | 26821888 |
| Social Insurance Office<br>of Ammochostos:              | 23816550 | Citizens' Service Centre<br>Pelendri:         | 25813400 |



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