



### Termination

#### *Notice*

#### **Are employers required to give notice of termination?**

In the case of ‘workmen’ (as defined in the Industrial Disputes Act, 1947), employers must give 30 days’ notice for termination for convenience or make a payment in lieu of the notice period. In the case of other employees, most states also provide for 30 days’ notice for termination for convenience, with a similar provision for payment in lieu of notice.

#### *Redundancies*

#### **What are the rules that govern redundancy procedures?**

For a ‘workman’ (as defined in the Industrial Disputes Act, 1947) who has completed one year of continuous service, the employer must provide 30 days’ notice or payment in lieu, together with the reasons for termination and severance compensation of 15 days for every year worked or a part thereof in excess of six months. Notice must also be given to the government.

In the case of a manufacturing unit, plantation or mine with 100 or more workmen, prior government approval of the termination is required. Further, in such cases the workmen must be given three months’ notice or payment in lieu, together with the reasons for termination and severance compensation of 15 days for every year worked or a part thereof in excess of six months.

For other employees, most states also require 30 days’ notice or make a payment in lieu of the notice period. A gratuity is payable for each employee who has completed five years of continuous service, at the rate of 15 days for every year worked or a part thereof in excess of six months. Statutory gratuity is usually always payable, unless:

- the employment has been terminated *inter alia* for an act or negligence that has caused loss, damage or destruction to the employer’s property; or
- where the employment has been terminated for riotous or violent conduct of the employee or any act involving moral turpitude in the course of employment.

In any of the foregoing cases, gratuity may be forfeited either partially or completely, depending on the incident.

Under the ‘last in, first out’ principle, which applies to workmen, the employer must first terminate the last workmen to join the organisation in the same role. This rule can be contracted out of. The employer is also required to offer re-employment first to the retrenched worker who is an Indian citizen.

#### **Are there particular rules for collective redundancies/mass layoffs?**

No specific rules on collective redundancies/mass layoffs exist.

#### *Protections*

## What protections do employees have on dismissal?

An employee who is dismissed, whether for cause or convenience, has the right to appeal the dismissal on statutory or contractual grounds before the appropriate authorities – typically, the jurisdictional labour authorities. The grounds for challenging the dismissal include the following:

- the employer has not provided a reason for the termination;
- the dismissal is unfair; or
- misconduct has not been established.

The redressal process usually involves approaching the appropriate labour authorities seeking conciliation as a first step, followed by adjudication if the labour authorities agree that this is required. *Click [here](#) to view the full article.*

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