



Employment Issues from the Employee's perspective

Some of the most commonly asked questions about Employment Issues are discussed on this page.

1. Do I have to sign an employment contract?

If you are currently employed under a verbal or written employment agreement then you are bound by the terms and conditions of that agreement. Neither you nor your employer is entitled to unilaterally change the terms and conditions. Your employer cannot force you to sign a new contract of employment with different terms and conditions unless you agree to do so. If you are commencing employment with an employer who offers you an employment contract then it is important for you to obtain urgent legal advice in relation to the terms and conditions of the agreement.

2. Am I bound by a restraint of trade clause in my employment contract?

It is common practice for employment contracts to now contain a restraint on an employee which prevents the employee from being employed by a competitor for a period after the employment relationship has ceased. Whilst the law has in the past frowned upon these restraints that prevent a person from earning a living, if the circumstances justify the restraints the courts are now more likely to uphold it. To be enforceable the restraint must protect the legitimate interests of the employer and the extent of the restriction must be no wider than what is reasonably necessary to protect those interests. The "test of reasonableness" will be assessed in terms of the extent of the activities the employee is being restrained from, the geographical area of restraint and the length of time of the restraint. Before signing any employment contract containing such a clause you should seek legal advice.

3. What am I entitled to if I am terminated?

The following:

- Any outstanding wages or other remuneration still owing.
- Any payments that have been made in lieu of notice of termination by the employer.
- Any accrued annual leave and long service leave entitlements.
- Any severance pay entitlements if the employee has been made redundant.

If you believe you have not received payment for all of your entitlements at the time your employment ends, you can contact the Fair Work Ombudsman who can investigate and take action to make sure that all your legal entitlements are paid.



4. What is redundancy?

Redundancy occurs when an employer decides they no longer want a job an employee has been doing to be done by anyone and terminates their employment.

5. If I believe I have been made redundant, what am I entitled to?

An employee is entitled to redundancy pay in accordance with the National Employment Standards (NES) provided by the *Fair Work Act 2009* (Cth). The amount of an employee's entitlement depends on their years of service with the maximum payable being 16 weeks' pay. You should seek legal advice to ensure you are provided with all your entitlements.

If you would like further information, or require assistance, please contact us on (02) 4731 5899 or send us an email by clicking on the 'Contact Us' page on our website.