

Severance pay: What you need to know

Losing a job is never easy, no matter the circumstances, but severance pay can help soften the blow. Understanding this pay will better prepare you for the unexpected and help ensure you are [fairly compensated](#) for your situation.

In this article, we take a look at what severance pay entails and what's included in a severance package in Australia. Discover the factors that influence severance pay calculations, such as length of employment, job title and specific terms outlined in your [employment contract](#). Whether you're facing redundancy or anticipating an end to your employment, here's a guide to severance pay so you're aware of your rights and entitlements.

What is a severance pay?

Severance pay is financial compensation provided to workers when their employment contract is terminated by their employer (severance pay meaning the 'payout' you receive when your employer ends your job against your will.) It's an important part of the employment package, usually given to employees who are laid off for reasons beyond their control or are 'fired' for underperforming. Severance pay can also be offered to someone who leaves under mutual agreement with their employer.

The purpose of this pay is to help cover living expenses while the employee searches for new employment. While employers are legally obligated to give their employees a certain amount of severance pay for layoffs and redundant roles, some offer more generous severance packages.

Legal obligations around severance pay in Australia

The legal side of severance pay is important to understand, so that you know your rights and your employer's responsibilities to you. In Australia, the Fair Work Act 2009 provides a guide to employment terms, including redundancy pay and severance.

Organisations must stick to these regulations to ensure compliance and fair treatment of employees.

Under the Fair Work Act, permanent employees are entitled to redundancy pay (a form of severance pay) when their job is made redundant (their role is discontinued). This doesn't include employees that are employed on a [casual basis](#), have been employed for less than 12 months, or work for a small business. The amount of redundancy pay is typically based on the length of service and can vary depending on the size of the organisation and any terms outlined in the employment contract.

While the Fair Work Act provides a federal framework, regulations can vary in different states and territories throughout Australia.

Employee's eligibility and entitlement during a retrenchment

When a workplace undergoes retrenchment (downsizing due to financial hardship), the first step is to determine whether or not you're eligible for severance pay. From there, you can look for further information. The Fair Work Act outlines how to calculate your entitlement.

Employee eligibility for severance pay

Determining whether you're eligible for severance pay involves looking at different factors, including:

- How long you've been with the organisation. In Australia, for example, employees who have been with an organisation for more than 12 months should qualify for redundancy pay.
- Your role or level within the organisation. Certain executive or [managerial positions](#) might have specific clauses in their contracts outlining severance pay.
- The type of employment contract. Permanent full-time and [part-time employees](#) usually have severance rights, while casual or contract workers are generally not eligible.

Employment contracts often include specific clauses when it comes to severance pay, outlining the conditions under which it's paid out, the method of calculation, and any exclusions. For example, a contract might state that severance pay is only given in the event of involuntary termination but not for resignation or misconduct.

Here are some examples of eligible scenarios:

- An employee who has been at an organisation in a full-time permanent position is laid off due to downsizing.
- A permanent part-time employee is made redundant following the closure of their department.
- An executive role is terminated as part of management restructuring.

Exceptions and exclusions

While the Fair Work Act provides a general framework, individual circumstances, specific policies and union agreements can all play a significant role in determining severance pay entitlements. Some situations may also exclude employees from these benefits.

1. **Misconduct:** employees [terminated for serious misconduct](#) are typically not eligible for severance pay. This includes theft, fraud, violence or severe breaches of workplace policies.
2. **Voluntary resignation:** employees who voluntarily resign from their positions are usually not entitled to severance pay.
3. **Organisational policies:** some organisations may have specific clauses that include additional conditions or exclusions.
4. **The financial health of an organisation:** by declaring bankruptcy, the organisation might be legally exempt from paying severance, or the payments might be significantly reduced.

The severance pay for unionised employees can also be different from that of non-unionised employees. Union contracts often have specific provisions regarding severance pay, which usually offer better terms than those available to non-unionised employees, including higher payments or extended eligibility criteria.

Factors affecting Australian redundancy pay

While the Fair Work Act provides a baseline for redundancy payments, the actual amount can vary depending on several different factors.

Duration of employment

How long you've been at a company or organisation is one of the biggest factors when

it comes to calculating your redundancy pay. Generally, the longer you have been with the same employer, the higher the severance payment you're entitled to. The Fair Work Act outlines the minimum entitlements, often based on a sliding scale where each year of service results in more pay.

Employee's salary and benefits

The calculation of severance pay typically includes:

- **Base salary:** severance is often calculated based on the employee's regular earnings.
- **Additional benefits:** bonuses, allowances and other regular benefits may also be considered in the calculation, depending on the organisation's policy and the terms of the employment contract.

Policies and employment contracts

The specific terms outlined in organisation's policies and individual employment contracts can also impact the calculation of severance pay. These may include:

- **Organisation-specific formulas:** some workplaces have their own formula for calculating severance pay, which may be more generous than the legal minimum.
- **Contractual clauses:** individual employment contracts might contain specific provisions regarding severance pay.

How to calculate termination pay during a retrenchment

If your company is retrenching people, your main concern is likely to be how much termination pay you will receive.

Using a severance pay calculator

To work out severance pay in Australia, you can use online calculators to give you a clear picture. One helpful online tool is the [Fair Work Ombudsman Notice & Redundancy Calculator](#). This official tool takes into account the latest rates and entitlements and can give you up-to-date information. The [Redundancy Calculator](#) is another tool, offering a straightforward platform where you can share personal

information to estimate your redundancy pay. Keep in mind that these tools are only estimates.

When using these calculators, you typically need to input information such as how long you've worked at the company, your base rate of pay, and any other relevant factors like annual leave or [long service leave](#). The calculators then use this information to [estimate your redundancy](#) entitlements. It's also useful to have your employment contract handy, as it may contain specific clauses that could affect your severance pay calculation.

Example of how to calculate severance pay

To show how severance pay can be calculated in Australia, here's a hypothetical situation.

An [office manager](#) on an annual salary of \$60,000 (\$5,000 per month) has worked at their organisation for 5 years.

Information used to calculate the severance pay:

Length of service: five years

Monthly salary: \$5,000

According to the Fair Work Act, someone who has worked between five and six years for their employer is entitled to 10 weeks of pay.

For five years of service: 10 weeks of pay

Salary calculation: \$60,000 / 52 weeks = approximately \$1,153.85 per week.

Severance pay: \$1,153.85 (weekly salary) multiplied by 10 = \$11,538.50

It's important to note that the actual amount might differ based on specific terms in the employment contract or the company's policies. Use the calculator as a guide only and double-check entitlements at the [Fair Work Ombudsman](#) website.

For employees facing redundancy, it's important to understand how severance pay works and workers' legal entitlements. Several elements play a significant role in determining eligibility and the amount of severance pay. For specific queries related to

severance pay, it's always best to seek professional advice. Laws and contractual terms can be complex, and expert guidance ensures that both employees and employers are clear on entitlements and obligations.

FAQs

What are the key factors that determine eligibility for severance pay?

The key factors determining eligibility for severance pay typically include:

- Length of service
- Type of employment contract
- Reason for termination

Permanent full-time or part-time employees are more likely to be eligible, while those on casual or fixed-term contracts might not be.

How is severance pay calculated, and what are the main components considered in the calculation?

Severance pay is usually calculated based on the employee's length of service, base salary and any terms laid out in the contract. The standard approach involves multiplying a set number of weeks' pay by the number of years of service, often factoring in unique contract terms.

Can an employee negotiate their severance pay with their employer?

Yes, employees can negotiate their severance pay with their employer. While employers often have standard policies, there can be room for negotiation, especially with higher-level positions or in unique circumstances.

Are there any legal requirements for employers to provide severance pay?

Legal requirements for severance pay vary by country and region. In Australia, there are specific legal mandates under certain conditions, set out by bodies like the Fair Work Commission. In some countries, such as the United States, severance pay is not legally required.

How does severance pay differ for part-time and full-time employees?

Severance pay for part-time employees is often calculated similarly to that for full-time employees, based on their equivalent years of service and salary. However, the overall amount may be less for part-time employees due to the fewer hours worked compared to full-time employees.