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1. Introduction

- 1.1 There may be situations where a reduction in demand means that laying-off and short-time working are two options available to employers as alternatives to redundancy.
- 1.2 The term 'laying-off' is used when employees are not provided with work by their employer, and the term 'short-time working' is used when employees are not provided with work for a number of days or weeks, or work a reduced number of paid hours for a number of days or weeks.
- 1.3 However, employers should not lay-off employees or put them on short-time working without first consulting the employees. These Guidance Notes provide further information on the legal implications of laying-off and short-time working, and contain guidance as to how employers should proceed.

need to make cut-backs due to a reduction in demand. Laying-off and short-time working are two possible alternatives to redundancy.

Employees are not provided with work by their employer temporarily.

Employees are not provided with work for a number of days or weeks, or work a reduced number of hours a week.

Employers should not lay-off employees or put them on short-time working without first consulting the employees. These Guidance Notes provide further information on how to do this, and the potentially serious implications of laying-off and short-time working. These Notes also contain guidance as to how employers should proceed.

2. Procedure

- 2.1 There is a general right of employees to come into work. However, employers may lay-off an employee if they can show that they have a valid reason for doing so, either:
 - 2.1.1 An express right to lay-off in the employee's contract of employment; or
 - 2.1.2 A collective agreement or understanding between the employer and a recognised trade union (referred to as a 'contract of employment'); or
 - 2.1.3 A national agreement or award which applies to the industry which the employer follows (which is referred to as a 'contract of employment');
 - 2.1.4 Clear evidence of a custom or practice which has been established over a long period; or
 - 2.1.5 Mutual agreement between the employer and the employee to vary the terms of the contract of employment (see Clause 4).
- 2.2 Once it has been established that there is a valid reason for laying-off employees or putting them on short-time working, employers should establish the number of employees who are to be laid-off or have their hours reduced. This should be done on a fair basis, taking into account the needs of the business and the needs of the employees who are to be laid-off or have their hours reduced.
- 2.3 Once the number of employees to be laid-off or have their hours reduced has been established, employers should note down their lay-off criteria, such as seniority, job elimination etc.
- 2.4 When a lay-off or short-time working is to be implemented, employers should

Employers may lay-off employees if they can show that they have a valid reason for doing so. Employees should not rely on this right and in order to ensure that they continue to be working there should be a valid reason for doing so.

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3.5.1 Employees must be included in their contract including...

...where their employment contract includes...

3.5.2 If CGP is high... However if they qualify (S...)

...do not need to pay SGP. However, employers must pay employees SGP if...

3.5.3 The employee's contract may also specify a longer guarantee period provided for by SGP.

...may also specify a longer guarantee period provided for by SGP.

3.5.4 If no daily rate is provided, CGP should be adjusted in proportion to the number of days for which an employee is laid-off.

...of employment, CGP should be adjusted in proportion to the number of days for which an employee is laid-off.

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4. Duration and Redundancy

4.1 Lay-offs can last as long as the employee's contract of employment and the length of time for which an employee can be laid-off working.

...employee's contract of employment and the length of time for which an employee can be laid-off working.

4.2 The employee may, in certain circumstances, be entitled to Statutory Redundancy Pay (SRP) if the employee is put on short-time working and is earning less than half their normal pay for either:

...in Statutory Redundancy Pay (SRP) if the employee is put on short-time working and is earning less than half their normal pay for either:

4.2.1 Four consecutive weeks or

...period.

4.2.2 Six weeks or

4.3 If the employee intends to resign, they must provide their employer with written notice of their intention to resign four weeks of the end of the period of short-time work.

...SRP the employee should provide written notice of their intention to resign to be given to the employer within four weeks of the end of the period of short-time work.

4.3.1 Four or more weeks of short-time work in a row; or

...time work in a row; or

4.3.2 Six or more weeks of short-time work in a period.

...time work within a 13 week period.

4.4 Once the employer has received the employee's written notice, they must respond within seven days either accepting the employee's resignation or stating that they do not accept the employee's resignation. This 'notice period' must last for at least 13 weeks.

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4.5 A failure to respond to the employee's written notice will result in the assumption that the employee's resignation is accepted.

...notice will result in the assumption that the employee's resignation is accepted.

4.6 An employee must give written notice of their resignation to their employer. Many claims can fail where the employee does not give their employer one week's notice when the employee's resignation is accepted.

...order to receive SRP. Many claims can fail where the employee does not give their employer one week's notice when the employee's resignation is accepted. The time limits for an employee to give written notice for a claim of SRP are specified. The time limits for an employee to give written notice for a claim of SRP are specified.

4.6.1 Once seven days' written notice has been given to the employer, the employee must resign with three weeks' notice.

...written notice for a claim of SRP. The employee must resign with three weeks' notice.

4.6.2 If the employee gives written notice to an employer, the employee must resign within three weeks of the end of the notice period.

...and the employee takes the claim to an employment tribunal, the employee must resign within three weeks of the date of the claimant's decision.

4.6.3 Where the employee gives written notice but later withdraws it, the employee must give written notice of their resignation within three weeks of the date of withdrawal.

...for notice but later withdrawn it, the employee must give written notice of their resignation within three weeks of the date of withdrawal.

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4.6.4 If the employee...
employee mu...
the Employm...

nt tribunal's decision, the
weeks of the original decision of

4.7 Where a lay-off or sh...
should be send to the...
(EMP.LAY.03) and T...
(EMP.SH.03)

as come to an end, notice
ation of Lay-off Period
Working Period Letters

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5. **Changing Contract of Emp**

5.1 Where there is no cla...
for laying-off and/or s...

ontract of employment allowing
employer may wish to add one.

5.2 The terms of a contra...

d only be changed by:

5.2.1 Agreement be...
See *Lay-off a...*
of Variation D...

the employee, verbal or written.
ause (EMP.LAY.04) and Deed
);

5.2.2 A collective a...
staff associat...

mployer and a trade union or

5.2.3 The existence...
changing the...

om and practice, thereby

5.3 When making chang...
advisable, though no...
the terms of an empl...
changed the employe...
within one month.

ract of employment it is
changes in writing. If, however,
of employment particulars are
oyee with an amended statement

5.4 Where it has been ag...
or the employer is ta...
clauses are present.
Working (EMP.LAY.0...

t of employment shall be issued,
they should ensure the relevant
act: Lay-off and Short-time

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6. **Wrongful / Unfair Lay-offs**

6.1 Employers should en...
carefully. This is bec...
result in employees r...
of wages, unfair dism...

short-time working are handled
with legal requirements could
of contract, unlawful deduction

6.2 Employers will be ac...
without pay and this...
employment. They v...
on short-time working...
impliedly allows this,
deduction from wage...

where an employee is laid-off
y allowed in their contract of
ontract if they put an employee
less their contract expressly /
in pay will result in an unlawful

6.3 Employers consideri...
terminating the old o...
claim. Therefore em...
varying their terms o...

new contract of employment and
could result in an unfair dismissal
with employees the prospect of
this.

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7. **Notes**

- 7.1 An alternative to lay-off employees that they
- 7.2 If redundancies are in laying-off employees
- 7.3 A fair and non-discriminatory process should always be followed when laying-off employees on short-time working, as otherwise the employer may open itself to a claim for unfair dismissal.
- 7.4 If the employer is in a position to lay-off employees or put them on short-time working, it should always be followed when laying-off employees on short-time working, as otherwise the employer may open itself to a claim for unfair dismissal.

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g could be agreeing with
d.
nt in delaying the process by
d always be followed when
-time working, as otherwise the
to lay-off employees or put
independent legal advice.