

Senate Standing Committee on Environment and Communications
Legislation Committee
Answers to questions on notice
Environment portfolio

Question No: 154
Hearing: Additional Budget Estimates
Outcome: Corporate
Programme: Corporate Services Division
Topic: Portfolio Wide – Enterprise Agreement – forced redundancies
Hansard Page: N/A
Question Date: 7 March 2014
Question Type: Written

Senator Waters asked:

Please step through the process in place under the relevant enterprise agreement or agreements that apply when forced redundancies are implemented?

Answer:

Department of the Environment

Information about redundancy provisions in the Department is publicly available in clauses 8.38 to 8.71 of the Department's *Enterprise Agreement 2011-14* at www.environment.gov.au (<http://www.environment.gov.au/resource/enterprise-agreement-2011-2014>).

Bureau of Meteorology

Information about redundancy provisions in the Bureau is publicly available in clause 34 (Redeployment, Retirement and Redundancy) of the Bureau's *Enterprise Agreement 2011-14* at www.bom.gov.au (<http://www.bom.gov.au/inside/ea-2011-14-final.pdf>).

Where an excess employee situation is identified, the employee is consulted to determine if they would like to (a) seek redeployment or (b) accept voluntary retrenchment. If voluntary retrenchment is not the preferred option of the employee, they are retained for a period of time (either seven or 13 months, dependent on age and length of service) while they seek redeployment. This period is referred to as the 'retention period', and the employee is provided with assistance from the Bureau to maximise their redeployment opportunities. If, at the end of the retention period, the employee has not been redeployed, their employment is terminated on an involuntary basis.

Climate Change Authority

Information about redundancy provisions in the Climate Change Authority is publicly available in clauses 77.1 to 87.3 of the *Department of Climate Change and Energy Efficiency Enterprise Agreement 2011-14* at www.climatechangeauthority.gov.au (<http://climatechangeauthority.gov.au/sites/climatechangeauthority.gov.au/files/files/employment/dccee-nterprise-agreement-2011-14.pdf>).

Clean Energy Regulator

The Clean Energy Regulator manages redundancies in accordance with section 29 of the *Public Service Act 1999*, as laid out in the agency's two enterprise agreements – *Department of Climate Change and Energy Efficiency Enterprise Agreement 2011-14* and the *Office of the Renewable Energy Regulator Enterprise Agreement 2011-2014*. The processes that apply when involuntary redundancies are implemented under both enterprise agreements are detailed below:

The provisions apply to ongoing employees who are not on probation.

- i) Agency Head takes all reasonable steps to transfer potentially excess employee/s to suitable vacancy.
- ii) If not successful at step i) and the Agency Head considers there is a need to identify employees as excess they will notify the employee as soon as practicable in writing of their excess status and advise the employee of possibility of retrenchment with payment of a redundancy benefit.
- iii) Four week consultation period which may be reduced with written agreement of employee. During the consultation period the employee considers redeployment opportunities within the agency or another APS agency.
- iv) If not successful at step iii) Agency Head invites excess employee to elect for retrenchment with redundancy benefit, the employee will have three weeks to notify the Agency Head of their decision (the consideration period).
- v) If employee accepts offer of redundancy their employment is terminated by the Agency Head under section 29 of the *Public Service Act 1999* on the grounds that the employee is excess to requirements.
- vi) If employee does not accept the offer of redundancy the retention period commences on the day after the expiration of the consideration period. The retention periods are seven months; or 13 months where an employee has 20 or more years of service or is over 45 years of age.

In accordance with section 29 of the *Public Service Act 1999*, the Agency Head may terminate the employment of an excess employee at the end of the retention period.

Great Barrier Reef Marine Park Authority

Information about redundancy provisions in the Great Barrier Reef Marine Park Authority is publicly available in clauses 14.29 to 14.32 of the GBRMPA *Enterprise Agreement 2011-14* at http://www.gbrmpa.gov.au/__data/assets/pdf_file/0017/14219/GBRMPA-Enterprise-Agreement-2011-2014.pdf.

Murray Darling Basin Authority

Information about redundancy provisions in the Murray-Darling Basin Authority (the Authority) is publicly available in clauses 85-91 of the Authority's *Enterprise Agreement 2011-2014* at www.mdba.gov.au (http://www.mdba.gov.au/about-mdba/careers/enterprise_agreement).

National Water Commission

Information about redundancy provisions in the Commission is publicly available in clauses 83 to 84 of the Commission's *Enterprise Agreement 2012-14* at:

http://www.nwc.gov.au/__data/assets/pdf_file/0020/25346/NWC-Enterprise-Agreement-2012-14.pdf.

Sydney Harbour Federation Trust

Sydney Harbour Federation Trust (SHFT) staff are not employed under the APS Act.

Information regarding redundancy within SHFT as set down in the Enterprise Agreement is as follows:

VOLUNTARY REDUNDANCY FOR ONGOING EMPLOYEES

1.1 This clause applies only to ongoing Employees who are not on probation.

Early Separation Opportunity

1.2 Where an Employee is likely to become excess the Executive Director may provide to that Employee an early separation opportunity. This option provides for separation to occur within 14 days of the Employee being advised that they are excess.

1.3 An early separation opportunity attracts an additional payment of 8 weeks' salary (or 10 weeks for an Employee over 45 years of age with at least 5 years continuous service), over and above any other amount paid on separation in accordance with this Agreement.

1.4 The payment is in lieu of the time that may have reasonably been expected to elapse for the purpose of the consultation periods and notice periods.

Consultation Process

1.5 When the Trust is aware that an Employee is potentially excess, the Trust will advise the Employee of the situation at the earliest practicable time.

1.6 The Trust will hold discussions with the Employee about the process. Where the Employee nominates a representative they wish to be involved in this matter, the Trust will hold discussions with the Employee and their representative.

1.7 Where 15 or more Employees are likely to become excess the Trust will comply with the provisions of sections 530 and 531 of the *Fair Work Act 2009*.

Excess Employees' Notice of Termination

1.8 Where the Trust advises the Employee that they are excess they will be provided with four weeks' notice of termination, except where the *Fair Work Act 2009* provides for a longer period of notice. The Trust may provide an Employee with payment in lieu of the unexpired portion of the notice period, required to be given under this Agreement, the *Fair Work Act 2009* or a contract of employment.

1.9 Within 2 weeks of the beginning of the notice period an Employee will be given advice on the following:

- (a) amount of redundancy pay, pay in lieu of notice and paid up leave credits;
- (b) amount of accumulated superannuation contributions;
- (c) options available to the Employee concerning superannuation (through ComSuper or another provider); and
- (d) taxation rules applying to the various payments (through the Australian Taxation Office).

- 1.10 If the Trust is unable to comply with the above requirement because a payment is made in lieu of notice, the information shall be provided as soon as practicable on or after termination.
- 1.11 Financial assistance will be provided (up to a maximum of \$500) for financial advice.

Redundancy Pay

An excess Employee whose employment is terminated under these provisions is entitled to be paid redundancy pay of a sum equal to two weeks salary for each completed year of continuous service, plus a pro rata payment for completed months of service since the last completed year of service, subject to any minimum amount the employee is entitled to under the National Employment Standards.

- 1.12 The minimum sum payable will be 8 weeks' salary and the maximum will be 48 weeks' salary.
- 1.13 Redundancy pay will be calculated on a pro-rata basis for any period where an Employee has worked part-time hours during their period of service.
- 1.14 Service for redundancy pay purposes means continuous service with the Trust and immediate prior service with the Australian Public Service or other Australian Government Authority.
- 1.15 Absences from work, which do not count as service for Long Service Leave purposes, will not count as service for redundancy pay purposes.

Rate of Redundancy Payment

- 1.16 For the purpose of calculating any payment, salary will include:
- (a) the Employee's salary at their substantive classification level; or
 - (b) the salary of the higher work value level, where the Employee has been working at the higher level for a continuous period of at least 12 months immediately preceding the date on which the Employee is given notice of retrenchment; and
 - (c) other allowances in the nature of salary, which are paid during periods of annual leave and on a regular basis, excluding allowances which are a reimbursement for expenses incurred.