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Redundancy payouts at risk

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THE days of the redundancy package could be numbered as employers use ``operational reasons" provided by John Howard's new workplace laws to lay off people without giving generous payouts.

Legal experts believe the Government's laws allowing sackings for ``genuine operational reasons" are so broad they could be used by employers to escape not just unfair dismissal claims, but also redundancy entitlements.

Sacked employees would have to prove in a court that their position was made redundant.

ACTU secretary **Greg Combet** said that using operational reasons to avoid redundancies was a big ``sleeper issue" of new industrial laws introduced this week.

``A redundancy means that your job is disappearing," Mr Combet said. ``But employers will be able to avoid redundancy obligations as well as unfair dismissal claims by saying `this is because of operational reasons'."

Andrew Stewart, professor of industrial law at Flinders University, said employers only had to use an element of ``genuine operational reasons" for an unfair dismissal claim to be disallowed in firms with more than 100 staff.

He said employers could also avoid a redundancy payment, even if such a clause existed in the sacked worker's employment agreement. ``The employer could say, `This is not a redundancy, I'm replacing you'," Professor Stewart said.

Ron McCallum, professor of industrial law at the University of Sydney, said redundancy payouts could be avoided if an employer focused on a person's ``qualities" when laying them off.

``If the employer said they needed different qualities they could avoid a redundancy," he said. ``It's a grey area. Operational reasons have got to be separate from redundancies."

Under the new system, employers negotiating new agreements can exclude redundancy because it has been deleted from a list of compulsory minimum

conditions. Redundancy entitlements remain, but firms with fewer than 15 staff are exempt.

Despite being stripped of many of its powers, Australian Industrial Relations Commission president Geoff Giudice insisted yesterday that the body would play a significant role under the new regime.

Under the new workplace laws, the commission has lost the power to set wages, change awards or approve workplace agreements. But Justice Giudice denied the commission's role had been gutted by the Government.

``It does have a continuing significant role and it's a role that has been the keystone of its operation since 1904, that is the resolution of industrial disputes," he said. ``The context may have changed but that's still the core function."

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