

USING LAYOFFS AS AN ALTERNATIVE TO REDUNDANCY

by Gretchen Tucker

In the current economic climate, it is not uncommon to find companies experiencing financial difficulties unwilling to make valued employees redundant. For companies seeking an alternative to redundancy, layoffs can prove a viable option, provided that they can meet the statutory requirements under Bermuda law.

The Employment Act 2000 mandates that one of the following *conditions of redundancy* must exist in order for an employer to lawfully layoff one of its employees:

- The modernization, mechanization or automation of all or part of the employer's business;
- The discontinuance of all or part of the business;
- The sale or other disposal of the business;
- The reorganization of the business;
- The reduction in business which has been necessitated by economic conditions, contraction in the volume of work or sales, reduced demand or surplus inventory; or
- The impossibility or impracticality of carrying on the business at the usual rate or at all due to shortage of materials, mechanical breakdowns, an act of God or other circumstances beyond the control of the employer.

Where one or more of the above conditions exist, an employer can lay off employees for a continuous period of up to four months. Depending on the needs of the business, this period of time could be just what the doctor ordered – allowing a company to salvage employment relationships with its employees while:

- Reducing overhead costs associated with payroll, benefits and insurance;
- Gaining better control over finances;
- Improving the viability of the company over the long term; and The role of the company management and HR in the selection process.
- Reconsidering business strategies and distinguishing the key performers within the company.

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