

# Structuring Severance Packages



A costly mistake that employers frequently make is failing to include a clear and enforceable termination provision in their employment contracts. This is due to a number of reasons. A key reason is not wanting to consider details about how the relationship will end at a time when the relationship is just beginning. Another reason is thinking that the main terms of an employment agreement are limited to start date, position and duties and salary and benefits. Yet another reason is believing that the employment relationship is governed solely by employment standards legislation and that accordingly, the employer's obligation is limited to satisfying Section 63 of the *BCEmployment Standards Act* (the "ESA").

The law, however, dictates that an employer who dismisses an employee without cause must provide the employee with reasonable notice or pay in lieu of such notice in accordance with the common law ("Reasonable Notice"). The presumption that an employer must give Reasonable Notice is rebutted if an employment contract contains a termination clause that clearly and unambiguously specifies the notice to be given in the event the employer wishes to terminate the relationship without cause.

## **Ancillary Material**

1. [Download the Slide Deck](#)
2. [Whitepaper: Structuring Severance Packages](#)

Heather Hettiarachchi is Chair of Clark Wilson's Labour & Employment Practice Group. She is also a member of the Higher Learning Group. Her practice focuses on all aspects of employment and labour law, human resource management issues and mediation services.

Heather's background differs from that of many other labour and employment lawyers as she has a unique combination of legal expertise and extensive, hands-on human resources management and labour relations experience. Prior to being called to the British Columbia Bar, she was a Human Resources Manager at a large Canadian University and Labour Relations Advisor to Vancouver's oldest community college. Before immigrating to Canada, Heather managed the human resources of a large private insurance company.

Heather articulated with a leading labour and employment boutique firm in Vancouver and

was an associate in the labour and employment group of an eminent national firm prior to joining Clark Wilson.

While at university, Heather was actively involved in collective bargaining with CUPE and gained considerable experience in job evaluation, job classification and compensation, return to work issues, and health and safety. She was also on the President's advisory committee on discrimination and harassment.

Heather was called to the Bar of British Columbia after attending law school at the University of British Columbia in order to obtain Canadian Accreditation of her legal qualifications. She previously graduated with a LL.B. (Honours) degree from the University of Colombo, Sri Lanka, in 1992. Heather also earned an M.Sc. in Training & Human Resources Management from the University of Leicester, UK, in 2001.

Heather has taught labour law as a Visiting Lecturer at the Faculty of Law, University of Colombo and the Open University of Sri Lanka.