

Employees must consult an independent lawyer, who has to certify that they have given the employee advice about the document. Even so, employees should consider agreements carefully and be prepared for what they might find - and what they can change, says Sellens. "Fundamentally, it's a commercial transaction so there's often the opportunity to negotiate."

Apart from how much employees are receiving as a payout, they will normally see a confidentiality clause.

This is included to prevent sensitive information about the employer being disclosed. Before signing one, employees could negotiate for possible extras - for example, more money.

"Employees can also be allowed to keep a mobile. Much depends on the bargaining power of the individual," says Lakeland. "This normally comes down to how strong a case they have against the employer."

One potential area of trouble for employees is tax. "There's usually a nasty clause called an 'indemnity clause', which is standard in compromise agreements. It means that the employee runs the risk of being liable for tax on the tax-free payment if the employer has made a mistake and paid out money tax-free that should have been taxed," says Lakeland.

Some contractual entitlements are always taxable. Notice is a tricky issue, he says, and if there is a payment-in-lieu-of-notice clause, then the amount paid will be taxable. It is sometimes possible to make compromise agreements more tax efficient, says Sellens. "Often the lawyer advising the employee can advise them on tax, but sometimes it's a good idea for them to get an accountant's advice as well."

As compromise agreements are becoming more popular, employees can expect to see them more often.

When they do, they should be ready.

Says Lakeland: "It is your chance to settle things with a former employer to your advantage."

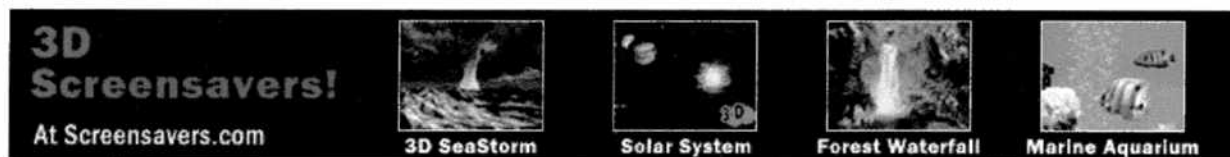
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