Notice & final pay

Coronavirus and Australian workplace laws
If your workplace has been impacted by coronavirus, we have information about your workplace rights and obligations.

Find out more on Coronavirus and Australian workplace laws (https://coronavirus.fairwork.gov.au/).

A notice period is the length of time that an employee or employer has to give to end employment.


Look at:


How to give notice

We’re reviewing the information in this section and we’ll update it with any changes as soon as possible. In the meantime, see Notice of termination and leave (www.fairwork.gov.au/library/k600433_notice-of-termination-leave) for more information about this review.

To end an employee’s employment (also known as firing or terminating employment), an employer has to give them written notice of their last day of employment.

An employer can give notice to the employee by:

- delivering it personally
- leaving it at the employee’s last known address, or
- sending it by pre-paid post to the employee’s last known address.

Employees who are resigning don’t need to give notice in writing - they can give it verbally.

Can notice be paid out instead of worked?

Yes. An employer can:

- let the employee work through their notice period
- pay it out to them (also known as pay in lieu of notice), or
- give a combination of the two.

If the employer pays out the notice, the amount paid to the employee must equal the full amount the employee would have been paid if they worked until the end of the notice period. This includes:

- incentive-based payments and bonuses
- loadings
- monetary allowances
- overtime
- penalty rates
- any other separately identifiable amounts.
If the employer pays out the notice, the employee does not accrue any annual leave for the notice period they were paid out for.

If the employer doesn’t pay out the notice, the employee needs to work out the whole notice period.

**Notice during probation periods**

If an employee’s employment is ended while they’re on probation, they still have to get or be paid out notice based on their length of service.

**Serious misconduct**

When an employee is terminated on the grounds of serious misconduct ([www.fairwork.gov.au/Dictionary.aspx?TermID=2080](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2080)), the employer does not have to provide any notice of termination. However, the employer does have to pay the employee all outstanding entitlements such as payment for time worked, annual leave and sometimes long service leave. Whether an employer needs to pay out long service leave ([www.fairwork.gov.au/leave/long-service-leave](http://www.fairwork.gov.au/leave/long-service-leave)) depends on where the entitlement comes from, usually state or territory long service leave laws.

Serious misconduct involves an employee deliberately behaving in a way that is inconsistent with continuing their employment. Examples include:

- causing serious and imminent risk to the health and safety of another person or to the reputation or profits of their employer’s business
- theft, fraud, assault, or
- refusing to carry out a lawful and reasonable instruction that is part of the job.


**What to do next**

- Use the Letter of termination of employment template ([DOCX 37.6KB](http://www.fairwork.gov.au/ArticleDocuments/766/Termination-of-employment-letter-template.docx))

**Help for small business**


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