

Ending employment during parental leave

Resigning from a job while on parental leave

An employee can resign from their job while they're on parental leave. They:

- have to give the correct notice period to their employer
- can use their parental leave as the notice period.

Notice periods can be different in each award and [registered agreement \(www.fairwork.gov.au/Dictionary.aspx?TermID=2034\)](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2034) . Check the [Resignation - how much notice? \(www.fairwork.gov.au/Ending-employment/notice-and-final-pay/resignation-how-much-notice\)](http://www.fairwork.gov.au/Ending-employment/notice-and-final-pay/resignation-how-much-notice) page for more about notice periods under awards.

Dismissed by an employer while on parental leave

If an employer dismisses an employee while they're on parental leave, the employee has to be paid instead of working the notice period.

This is because the employee can't work the notice period when they're on parental leave. For example, an employee who is entitled to 3 weeks' notice will get 3 weeks' pay instead of working.

The minimum notice periods can be different in each award and registered agreement. Check the [Dismissal - how much notice? \(www.fairwork.gov.au/Ending-employment/notice-and-final-pay/dismissal-how-much-notice\)](http://www.fairwork.gov.au/Ending-employment/notice-and-final-pay/dismissal-how-much-notice) page for more about minimum notice periods.

Reasons for dismissing an employee on parental leave

An employer can't dismiss an employee because:

- of family or caring responsibilities
- they are pregnant
- they are on maternity or parental leave, or
- they are temporarily absent from work due to illness or injury.

This may be seen as discrimination, and it's unlawful to dismiss an employee for any of these reasons.

Redundancy while on parental leave

If an employee's job is made redundant while on parental leave, the employer has to:

- give them the correct notice
- pay out any entitlements, including redundancy pay.

All awards and registered agreements have a consultation process for when there are major changes to the workplace, such as redundancies.

Employers have to talk to an employee on unpaid parental leave if they decide to make a significant change in the workplace that will affect the employee's job. This has to occur as the decision is made, not when the employee comes back to work from parental leave.

Parental leave entitlements when a business changes owners

When a business changes owners, also known as a 'transfer of business', there might be a transfer of employment. This means that an employee keeps working at the business, but their employment transfers to the new business owner.

In this circumstance, employees entitled to unpaid parental leave with the old employer are still entitled to it with the new employer. This is because the new employer is required to recognise the employee's service with the old employer for parental leave entitlements.

This entitlement is recognised when the employee:

- provides the correct notice and evidence of intent to take parental leave under the old employer, or

- has already started unpaid parental leave with the old employer.

Need help resolving workplace issues about pregnancy, parental leave and returning to work?

For employees:

If you've lost your job, contact the Fair Work Commission (the Commission) first if you think you were sacked because of:

- discrimination
- a reason that is harsh, unjust or unreasonable
- another protected right.

You have 21 days from the day you were sacked to lodge an application with the Commission. Check the information at the Commission website to find out if you can apply for:

- unfair dismissal [☞](https://www.fwc.gov.au/termination-of-employment/unfair-dismissal) (<https://www.fwc.gov.au/termination-of-employment/unfair-dismissal>) (not available if you lost your job because of a genuine Redundancy (www.fairwork.gov.au/Ending-employment/Redundancy/default))
- a general protections dismissal [☞](https://www.fwc.gov.au/termination-employment/general-protections-dismissal) (<https://www.fwc.gov.au/termination-employment/general-protections-dismissal>)
- unlawful termination [☞](https://www.fwc.gov.au/termination-employment/unlawful-termination) (<https://www.fwc.gov.au/termination-employment/unlawful-termination>)

For employees and employers:

- Find information, downloadable guides and toolkits on pregnancy, parental leave and parents in the workplace on the Supporting working parents (<http://www.supportingworkingparents.gov.au/>) [☞](http://www.supportingworkingparents.gov.au/) website.
- Learn about discrimination (www.fairwork.gov.au/Employee-entitlements/Protections-at-work/protections-from-discrimination-at-work) and bullying and harassment (www.fairwork.gov.au/Employee-entitlements/bullying-and-harassment) and what can be done to stop it.
- If you think a mistake has been made about pay, parental leave or returning to work, see our Help resolving workplace issues (www.fairwork.gov.au/How-we-will-help/How-we-help-you/Help-resolving-workplace-issues/default) section for practical advice on:
 - figuring out if a mistake has been made
 - talking to your employer or employee about fixing it
 - getting help from us if you still can't resolve it.

What to do next

- Read the Best practice guide (www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/parental-leave) on parental leave
- Search the Awards (www.fairwork.gov.au/awards-and-agreements/awards/list-of-awards/list-of-awards) to find the award that applies
- Find an agreement on the Fair Work Commission's website [☞](https://www.fwc.gov.au/awards-and-agreements/agreements) (<https://www.fwc.gov.au/awards-and-agreements/agreements>)

Help for small business

- Find tools, resources and information you might need on our Small business page (www.fairwork.gov.au/Find-help-for/Small-business/default) .

You might also be interested in

- Notice and final pay (www.fairwork.gov.au/Ending-employment/notice-and-final-pay/default)
- Redundancy (www.fairwork.gov.au/ending-employment/redundancy/default)
- Unfair dismissal (www.fairwork.gov.au/ending-employment/unfair-dismissal)
- Protection from discrimination at work (www.fairwork.gov.au/employee-entitlements/protections-at-work/protection-from-discrimination-at-work)
- Employee entitlements on a transfer of business (www.fairwork.gov.au/Employee-entitlements/When-businesses-change-owners/employee-entitlements-on-a-transfer-of-business)

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

The Fair Work Ombudsman is committed to providing advice that you can rely on. The information contained on this website is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or workplace relations professional. Visitors are warned that this site may inadvertently contain names or pictures of Aboriginal and Torres Strait Islander people who have recently died.