

# Becoming work ready

## Ending an employment contract

Just like the protections that exist when a person starts work, there are also protections when a person finishes work. The minimum protections are the employment rights, conditions and entitlements included in the employment contract.

Either an employee or employer can legally end a contract of employment by providing notice to the other. Employers must pay the employee for their wages and unused annual leave.

Ending a contract of employment	
<b>Ending employment</b>	<a href="https://www.fairwork.gov.au/ending-employment">https://www.fairwork.gov.au/ending-employment</a> Understand the rights and obligations in ending a contract of employment.
<b>Notice period</b>	<a href="https://www.fairwork.gov.au/ending-employment/notice-and-final-pay/resignation-and-notice">https://www.fairwork.gov.au/ending-employment/notice-and-final-pay/resignation-and-notice</a> The amount of time that the award, agreement or employment contract states is to be provided. The period starts the day after giving notice and ends on the last day of employment. If there is no notice period, a reasonable amount of time is suggested. Employees are expected to work through the notice period and request any annual or personal leave.
<b>Insufficient notice</b>	<a href="https://www.australianunions.org.au/factsheet/giving-notice-resigning/">https://www.australianunions.org.au/factsheet/giving-notice-resigning/</a> If an employer is not given the required notice, the employee may not receive their full final pay. Employers can sometimes deduct money from a final pay if insufficient notice is provided. Employees can request an earlier finish date, but it is up to the employer to accept the request.
<b>Pay in lieu of notice</b>	<a href="https://www.fairwork.gov.au/tools-and-resources/library/K600628_Resignation-what-happens-when-an-employer-doesn-t-want-an-employee-to-work-through-a-notice-period-">https://www.fairwork.gov.au/tools-and-resources/library/K600628_Resignation-what-happens-when-an-employer-doesn-t-want-an-employee-to-work-through-a-notice-period-</a> An employer can decide that they do not want the employee to work the notice period and will need to pay the employee for this time.
<b>Final pay</b>	<a href="https://www.australianunions.org.au/factsheet/final-pay/">https://www.australianunions.org.au/factsheet/final-pay/</a> Employers generally provide the final pay within seven days of the final day of work. The final pay includes outstanding wages and accumulated annual leave. Depending on the situation, it may include long service leave, pay in lieu of notice and redundancy pay. Unused personal leave is not paid out.
<b>Casual employment</b>	<a href="https://www.fairwork.gov.au/sites/default/files/migration/724/casual-employment-information-statement.pdf">https://www.fairwork.gov.au/sites/default/files/migration/724/casual-employment-information-statement.pdf</a> Casual employees have no firm advance commitment to work. The employer offers work and the employee chooses to accept it. Notice periods do not generally apply. Casuals must still receive a final pay.

There are different ways that an employee or employer can legally end employment. Most situations require employers to follow specific steps to ensure they meet the minimum employment protections. As an employee, understanding basic employment rights and conditions can be helpful in managing what can sometimes be a stressful situation.

Ways to end an employment contract	
<b>End of contract</b>	<p><a href="https://www.fairwork.gov.au/starting-employment/types-of-employees/full-time-employees#fixed-term">https://www.fairwork.gov.au/starting-employment/types-of-employees/full-time-employees#fixed-term</a></p> <p>When an employee finishes a fixed-term contract the employment contract expires. Generally, employers provide notice that the contract is to expire.</p>
<b>During probation</b>	<p><a href="https://www.fairwork.gov.au/starting-employment/probation">https://www.fairwork.gov.au/starting-employment/probation</a></p> <p>Within the contract of employment there is a period of probation and employers provide feedback to the employee on their performance. During this period an employer can inform an employee that they have not met the requirements of the role and provide them with notice to finish.</p>
<b>Resignation</b>	<p><a href="https://www.australianunions.org.au/factsheet/giving-notice-resigning/">https://www.australianunions.org.au/factsheet/giving-notice-resigning/</a></p> <p>When an employee leaves a job voluntarily, they provide notice to their employer that they are resigning. It is best practice to provide a resignation notice in writing.</p> <ul style="list-style-type: none"> <li>Letter of resignation template: <a href="https://www.fairwork.gov.au/tools-and-resources/templates/letter-of-resignation">https://www.fairwork.gov.au/tools-and-resources/templates/letter-of-resignation</a>.</li> </ul>
<b>Forced resignation</b>	<p><a href="https://www.australianunions.org.au/factsheet/forced-resignation/">https://www.australianunions.org.au/factsheet/forced-resignation/</a></p> <p>When an employer acts in a way that puts an employee in a difficult situation with no choice but to provide notice through resignation.</p>
<b>Abandonment of employment</b>	<p><a href="https://www.fairwork.gov.au/tools-and-resources/library/K600465_Abandonment-of-employment">https://www.fairwork.gov.au/tools-and-resources/library/K600465_Abandonment-of-employment</a></p> <p>An employee abandons employment when they do not attend work, inform their employer or provide an excuse for a reasonable period of time.</p>
<b>Made redundant</b>	<p><a href="https://www.fairwork.gov.au/ending-employment/redundancy">https://www.fairwork.gov.au/ending-employment/redundancy</a></p> <p>When an employer no longer needs a job to be done they can make the job redundant. Common reasons for redundancy are business needs, workplace restructures, change management and automation. Employers must follow specific steps of workplace consultation, alternate job options, notice to finish and information about redundancy pay.</p> <ul style="list-style-type: none"> <li>What is redundancy – Video: <a href="https://youtu.be/duqYvzKRjKE">https://youtu.be/duqYvzKRjKE</a></li> <li>Overview of termination and redundancy pay <a href="https://www.australianunions.org.au/factsheet/redundancy-pay/">https://www.australianunions.org.au/factsheet/redundancy-pay/</a></li> <li>Redundancy information statement <a href="https://www.dewr.gov.au/whats-next/resources/redundancy-information-statement">https://www.dewr.gov.au/whats-next/resources/redundancy-information-statement</a>.</li> </ul>
<b>Getting sacked (misconduct and serious misconduct)</b>	<p><a href="https://www.fairwork.gov.au/ending-employment/notice-and-final-pay/who-doesn%E2%80%99t-get-notice">https://www.fairwork.gov.au/ending-employment/notice-and-final-pay/who-doesn%E2%80%99t-get-notice</a></p> <p>When an employee deliberately behaves in a way that is inconsistent with continued employment they can be sacked or terminated for misconduct or serious misconduct. In this situation, employers do not need to provide notice as they end the employment contract immediately.</p> <p><a href="https://www.fwc.gov.au/conduct">https://www.fwc.gov.au/conduct</a></p> <p>Examples of serious misconduct include theft, fraud, assault, sexual harassment, intoxication at work, refusing to carry out the duties of employment, safety breaches that put other employees in harmful situations, not following company policies and conduct outside of work.</p>

When employment ends in a way where employers did not follow the specific steps to ensure they meet the minimum employment protections, applications can be made for unfair dismissal or unlawful termination. Some actions need to be completed in a short time period.

Unfair dismissal	
<b>Unlawful processes</b>	<a href="https://www.australianunions.org.au/factsheet/unfair-dismissal-discrimination-and-redundancy/">https://www.australianunions.org.au/factsheet/unfair-dismissal-discrimination-and-redundancy/</a> There are laws to treat employees fairly and prevent discrimination on the basis of gender, race, cultural or religious background.
<b>Unfair dismissal</b>	<a href="https://www.fairwork.gov.au/ending-employment/unfair-dismissal">https://www.fairwork.gov.au/ending-employment/unfair-dismissal</a> If the employee feels the dismissal is harsh, unjust or unreasonable then they may be able to file for unfair dismissal. Some circumstances may be considered as an unfair dismissal, for example, forced resignation from bullying or coercion. Resigning due to performance management is not a valid reason.
<b>Unfair dismissal applications</b>	Applications for unfair dismissal can be made by: <ul style="list-style-type: none"> <li>National system employees: <a href="https://www.fwc.gov.au/job-loss-or-dismissal">https://www.fwc.gov.au/job-loss-or-dismissal</a></li> <li>State system employees: <a href="https://www.wairc.wa.gov.au/employees/unfair-dismissal-applications/">https://www.wairc.wa.gov.au/employees/unfair-dismissal-applications/</a>.</li> </ul>
<b>Legal advice</b>	<a href="https://www.fwc.gov.au/apply-or-lodge/legal-help-and-representation/where-find-legal-help">https://www.fwc.gov.au/apply-or-lodge/legal-help-and-representation/where-find-legal-help</a> Free legal help for employment issues is available.
<b>Union support</b>	<a href="https://www.australianunions.org.au/contact-australian-unions/">https://www.australianunions.org.au/contact-australian-unions/</a> Unions offer their members confidential assistance for workplace issues.

Sometimes businesses are unable to trade which affects their ability to pay their employees the wages and entitlements that they are owed.

When a business cannot trade	
<b>Bankruptcy, insolvency and liquidation</b>	<a href="https://asic.gov.au/regulatory-resources/insolvency/insolvency-for-employees/liquidation-a-guide-for-employees/">https://asic.gov.au/regulatory-resources/insolvency/insolvency-for-employees/liquidation-a-guide-for-employees/</a> A company becomes insolvent when it cannot pay its debts when due. Liquidation of a company terminates employment of employees. Employees owed money for wages and entitlements may be paid from liquidation funds.
<b>Fair entitlements guarantee (FER)</b>	<a href="https://www.dewr.gov.au/fair-entitlements-guarantee">https://www.dewr.gov.au/fair-entitlements-guarantee</a> The FER helps eligible employees claim unpaid wages and entitlements when businesses are unable to trade due to insolvency, liquidation or bankruptcy. Claims must be submitted within 12 months.

For apprentices and trainees that end employment, the out of contract register can help find a new employer to restart the training contract.

Apprentices and trainees	
<b>Out of contract register</b>	<a href="https://www.jobsandskills.wa.gov.au/employersupport#out-of-contract-register-for-apprentices-and-trainees">https://www.jobsandskills.wa.gov.au/employersupport#out-of-contract-register-for-apprentices-and-trainees</a> The out of contract register is maintained through the Apprenticeship Office and helps employers connect with apprentices and trainees that are part way through their qualification with the aim of restarting their training contract.