



Australian Government

Fair Work

OMBUDSMAN

Termination of employment

Australia's new workplace relations system

From 1 July 2009, most Australian workplaces are governed by a new system created by the *Fair Work Act 2009*.

The Fair Work Ombudsman helps employees, employers, contractors and the community to understand and comply with the new system. We provide information and advice, investigate workplace complaints and enforce Commonwealth workplace laws.

Termination of employment is when an employee's time with an employer ends. This sometimes happens because of redundancy or dismissal.

What is unlawful termination?

Unlawful termination is when an employee is dismissed by their employer for reasons including:

- a person's race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin (some exceptions apply, such as where it's based on the inherent requirements of the job)
- temporary absence from work because of illness or injury
- trade union membership or non-membership
- participation in trade union activities outside working hours or, with the employer's consent, during working hours
- seeking office as, or acting as, a representative of employees
- being absent from work during maternity leave or other parental leave
- temporary absence from work to engage in a voluntary emergency management activity
- filing a complaint, or participating in proceedings against an employer.

The Fair Work Ombudsman investigates **unlawful termination** complaints. Fair Work Australia can also help.

Unlawful termination complaints must be made to Fair Work Australia within **60 days** of the termination.



What is unfair dismissal?

Unfair dismissal is when a person is dismissed and the dismissal is harsh, unjust or unreasonable and is not a case of genuine redundancy. For more information contact Fair Work Australia on 1300 799 675 or visit www.fwa.gov.au.

If you believe you've been unfairly dismissed, you can apply to Fair Work Australia for a remedy. You must apply within **14 days** after a dismissal takes effect.

Redundancy – the basics

Redundancy happens when an employer decides they no longer want an employee's job to be done by anyone (except in cases of ordinary and customary turnover of labour).

Under Commonwealth workplace laws, a person's dismissal is a **genuine redundancy** if:

- the employer no longer needs the person's job to be done by anyone because of changes to the business's operational requirements
- the employer has followed consultation requirements in the award or agreement that applies.

It's **not** a genuine redundancy if it's reasonable for the employee to be redeployed in:

- the employer's business
- the business of an entity associated with the employer.

Notice periods – the basics

Employers must give employees notice that their employment will be terminated. The length of notice given is called the notice period. Fair Work Online has detailed information on the different notice periods and how they apply – go to:

www.fairwork.gov.au/Termination-of-employment

Final pay – the basics

Final pay is what the employer owes and must pay an employee, when the employer ends their employment.

What's included in final pay?

Employees should get the following entitlements in their final pay:

- outstanding wages, including penalty rates and allowances
- accrued annual leave entitlements
- accrued or pro-rata long-service leave (if applicable)
- redundancy pay entitlements (if applicable).

If an employee believes they haven't received the correct final pay, the Fair Work Ombudsman can investigate and take action to make sure the employer pays out all legally required wages and entitlements.

Need to know more?

Fair Work Online www.fairwork.gov.au has more information on the topics covered in this fact sheet.

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Monday to Friday, between 8.00am–6.00pm.

Need language help?

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

Hearing & speech impairment

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.

Fair Work Infoline: 13 13 94 www.fairwork.gov.au