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Part 5 : Employing People in Australia (Part 3: Terminating staff)

We briefly explained about employing people in Australia before. If employers understand how to terminate staffs in Australia properly, they can comply with the legal requirements when terminating people.

Here we briefly explain about the notice & final pay, unfair dismissal and redundancy.

For more information on terminating employees, see [fairwork.gov.au](http://www.fairwork.gov.au):
<http://www.fairwork.gov.au/ending-employment>



1. Notice in writing

- Provide notice in writing. Full-time and part-time employees are entitled to notice of termination, or payment in lieu of notice. The amount of notice depends on the employee's length of service and age.

Period of continuous service and notice period are follows:

- Not more than 1 year: 1 week
- More than 1 year, but not more than 3 years: 2 weeks*
- More than 3 years, but not more than 5 years: 3 weeks*
- More than 5 years: 4 weeks*

*The relevant notice period increases by 1 week if the employee is over 45 years old and has completed at least 2 years' continuous service with the employer.

Note: some classes of employees are not entitled to notice of termination.

For more information download the Notice of termination and redundancy pay fact sheet from the Fair Work Ombudsman's website.

<http://www.fairwork.gov.au/ending-employment/notice-and-final-pay>

2. Unfair dismissal

- Ensure the dismissal is fair. Employees may make unfair dismissal claims if the termination of their employment was 'harsh, unjust or unreasonable'. For more information about unfair dismissal visit the Fair Work Ombudsman's website.
<http://www.fairwork.gov.au/ending-employment/unfair-dismissal>
- Businesses with less than 15 employees should comply with the Small Business Fair Dismissal Code. Download a copy of the Small Business Fair Dismissal Code from the Fair Work Ombudsman's website.
- Ensure the dismissal is lawful. It is unlawful to terminate the employment employees because of:
 - a) temporary absence from work because of illness or injury
 - b) union membership (or non-membership) and participation in union activities
 - c) the employee seeking office or acting as a representative of employees
 - d) the employee filing a complaint or participating in legal proceedings against the employer
 - e) absence from work during parental leave
 - f) reasonable temporary absence from work to participate in a voluntary emergency management activity
 - g) 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.

3. Redundancy

- Check whether redundancy entitlements apply. If you no longer require anyone to do the job, redundancy benefits may apply. For more information about redundancy (including exceptions to the

entitlement) download the Notice of termination and redundancy pay fact sheet from the Fair Work Ombudsman's website.

<http://www.fairwork.gov.au/ending-employment/redundancy>

- The amount of redundancy pay under the NES equals the total amount payable to the employee for the redundancy pay period. This is worked out using the table below, at the employee's 'base rate of pay' for his or her ordinary hours of work.
- An employee's base rate of pay (other than a pieceworker) is the rate of pay payable to an employee for his or her ordinary hours of work, but not including any of the following:
(incentive-based payments and bonuses, loadings, monetary allowances, overtime or penalty rates, any other separately identifiable amounts.)
- The redundancy pay periods are as follows:
 - At least 1 year but less than 2 years: 4 weeks
 - At least 2 years but less than 3 years: 6 weeks
 - At least 3 years but less than 4 years: 7 weeks
 - At least 4 years but less than 5 years: 8 weeks
 - At least 5 years but less than 6 years: 10 weeks
 - At least 6 years but less than 7 years: 11 weeks
 - At least 7 years but less than 8 years: 13 weeks
 - At least 8 years but less than 9 years: 14 weeks
 - At least 9 years but less than 10 years: 16 weeks
- A small business is one that employs fewer than 15 employees. Some small businesses don't have to pay redundancy pay when making an employee redundant.

4. Keep records

- Employers must keep a record of the termination of employment, including who terminated the employment, and how it was terminated (e.g. by notice, summarily, or in some other manner). Template termination letters can be downloaded from the Fair Work Ombudsman's website.

<http://www.fairwork.gov.au/ending-employment/notice-and-final-pay>

5. Pay outstanding entitlements

- Pay outstanding entitlements, including:
 - a) any outstanding wages or other remuneration still owing
 - b) any payments that are being made in lieu of notice of termination by the employer
 - c) any accrued annual leave and long service leave entitlements
 - d) any redundancy entitlements

6. Important note

- Employers are not automatically entitled to deduct money from an employee's final pay for failing to give notice or for unreturned items (keys, uniforms etc). Deductions need to be properly authorised.
- For more information download the Termination of employment fact sheet from the Fair Work Ombudsman's website.
<http://www.fairwork.gov.au/about-us/policies-and-guides/fact-sheets/minimum-workplace-entitlements/notice-of-termination-and-redundancy-pay>

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