



Resigning from your job

Please note that this is general information & may not be relevant to your particular matter. This toolkit should not be taken as legal advice.

Quitting your job is a big decision

It is very difficult to take back a resignation, so make sure that you are properly informed and comfortable with your decision before telling your workplace.

Read our [“Should I resign? Important information to consider before handing in your resignation”](#) factsheet first to make sure you are not limiting your workplace rights by resigning.

I definitely want to resign. Now what?

You will need to figure out if you need to give notice. The notice period starts the day after you tell your workplace you want to end your employment, and ends on your last working day.

Casual employees do not have to give notice. However, you may consider giving notice as a matter of courtesy, especially if you will be relying on a reference from the employer.

If you are a **permanent employee**, or on a contract, you will need to consider your obligations under either your Award or your employment contract. Notice periods are commonly one to four weeks depending on how long you have been employed for.

Check the [Fair Work Ombudsman site](#) to find your Award.

Do I have to work through my notice period?

Usually, you will be required to work through your notice period. However, you can come to another arrangement by agreement with your employer.

- You can use annual leave with consent of your employer
- You can use sick leave, if you give notice as soon as possible and provide any medical documentation requested by your employer
- You can agree with your employer to end your employment early. If so your employer must pay out the notice period to you.
- If you don't want to work through your notice period because you don't feel safe at work, call us for advice before you resign.

What happens if I don't give notice as required?

If you fail to give the correct period notice, your employer could be entitled to withhold from your final pay, a payment equivalent to what you would have earned had you worked the correct notice period. Other Awards state that the employer can only withhold one week's wages in this situation.

Your employer also does not have to pay you out your pro-rata long service leave, if your employer considers you have terminated your employment unlawfully, by not giving proper notice.

Check your Award, agreement or employment contract for information about payments and allowable deductions upon the termination of your employment. Call us for further advice if needed.

Can I get fired in my notice period?

Your employer can choose to end your employment during the notice period. They must provide you with the full period of notice, or payment in lieu of notice.

You may be eligible to file an unfair dismissal claim or general protections claim, if they have not followed their obligations under the Fair Work Act 2009, your Award or employment contract. Each situation differs so please call us for further advice on your specific circumstances.

Do I have to write a resignation letter?

You may wish to tell your employer you are resigning in person, over the phone or in text. However it is best to follow up in writing (via letter or email) so there is no dispute about the timing of your end of employment, for example, when your notice period starts and finishes.

The Fair Work Ombudsman has a [template letter of resignation](#) you can use.

Other considerations

Workplace access and property

Make sure you give back any workplace property you have in your possession eg keys, work laptop any information that is confidential. Likewise, you should be afforded a fair opportunity to collect any personal belongings you have in the workplace.

Consult your employment contract regarding any intellectual property clauses. Generally, you should not keep any information belonging to the employer. Call us for further advice.

Restraint of trade clauses

Sometimes employment contracts have “restraint of trade” clauses, which require to you refrain from working in your industry for a certain period of time, in a certain geographical area.

As a default, these clauses are often found by courts to be unlawful, as they restrict the rights of a person to pursue employment. However they will be found to be valid if the clause reasonably protects the interests of the business, and is not more onerous than necessary to do so.

That is, the clause will be valid if a court finds that your potential future employment in the region or time period specified will risk a loss of business to your current employer. For example, if you will be competing with the business by using confidential information or trade connections which you gained in the course of your employment.

What could be found to be “reasonable” to protect the interests of a business very much depends on your individual situation and the industry in which you work. Call us for further advice.

Other considerations

References

Employers do not have to give you a positive reference. If asked by a prospective employer about your service, they should state the truth. To give a falsely negative reference could be grounds to sue for defamation, if you can prove you suffered a loss due to the false statement.

If they do not agree to being a referee, or providing a written reference, you can ask for a statement of service. A statement of service is a simple letter stating the period of your employment, and your job title. You are allowed to request these details from your employment records (and others) under the Fair Work Regulations 2009.

Separation Certificates

You can request a Separation Certificate from your employer if you need it for Centrelink. They have 14 days to provide it to you. If you need further help, contact Services Australia.