



# Understanding an employee's final pay

## Frequently asked questions

There are a number of rights and obligations that are important to follow when a staff member gives notice and an employment contract ends. Employment may end in a number of ways:

- the employee may resign
- be terminated or
- their position may be made redundant

However when a contract ends, the **dairy farm employer is responsible** for ensuring that the employee receives their correct entitlements on resignation or termination – this includes a final payment.

Final payments may differ depending on the state of the operation and whether the employer or the employee has ended the contract.

### The following entitlements must be considered when making up the employee's final pay:

- **Notice period** A minimum period of notice is required or the employee must be paid in lieu of notice. The Pastoral Award 2020 provides for a minimum notice period that depends on the length of service unless the employment contract states a longer period. The notice periods in the National Employment Standards apply to Award free employees unless the employment contract allows for a longer period. Visit: [fairwork.gov.au/employment-conditions/national-employment-standards](http://fairwork.gov.au/employment-conditions/national-employment-standards)

Remember, there are different rights and obligations when a job is made redundant, but the same notice periods and the Pastoral Award requirement to consult with employees still apply. For businesses that employ 15 or more employees, The National Employment Standards provide for redundancy pay that depends upon the length of service. For specific information on redundancy visit: [thepeopleindairy.org.au/engagement-reward/termination](http://thepeopleindairy.org.au/engagement-reward/termination)

- **Work performed until time of termination** Employees must be paid for all work performed during the notice period. This includes any other entitlements such as personal/carer's leave, public holidays or overtime.
- **Accrued annual leave:** All accrued annual leave, which has not been taken by the employee, must be calculated on the current rate of pay and paid out. Under the Pastoral Award 2020, any annual leave that has been taken in advance can be deducted from the amount due to the employee.
- **Annual leave loading:** Under the Pastoral Award 2020, annual leave loading must be paid for all annual leave – this includes any annual leave paid out on termination of employment. Award free employees are not entitled to annual leave loading.
- **Long service leave:** Employees must be paid but the length of service required before payout varies across Australia. Long service leave may not be payable if an employee is dismissed for serious or wilful misconduct – check your state laws to be sure of employee obligations: [thepeopleindairy.org.au/employment-rewards/state-industrial-laws/](http://thepeopleindairy.org.au/employment-rewards/state-industrial-laws/)
- **Personal/carer's leave:** Accrued personal or carer's leave does not have to be paid out on termination of employment.

#### **Final Pay: When is NOT superannuation applicable?**

The ATO does consider amounts paid on termination in lieu of notice as ordinary time earnings and super is payable on these amounts. Some termination payments are not regarded as ordinary earnings and therefore no superannuation has to be paid. They include:

- Accrued annual leave paid as a lump sum on termination
- Long service leave paid as a lump sum on termination.

Seek advice from your accountant or HR advisor.

#### **Final pay tips**

- 1 Maintain a comprehensive and up-to-date record of employee hours worked and leave entitlements, so you can settle a final pay easily and quickly.
- 2 People resign for various reasons; an exit interview is a good way to understand why they have left. Download the exit interview template for conversation tips: [thepeopleindairy.org.au/employment-rewards/termination/](https://thepeopleindairy.org.au/employment-rewards/termination/)
- 3 Redundancy is difficult for both the employer and employee – employers should contact a farm adviser and get legal advice.

#### **For more information**

- Visit Dairy Australia's The People in Dairy website to access a range of industry specific human resources: [thepeopleindairy.org.au](https://thepeopleindairy.org.au)
- Check Fairwork Australia's National Employment Standards: [fairwork.gov.au/employment-conditions/national-employment-standards](https://fairwork.gov.au/employment-conditions/national-employment-standards)