

Understanding an employee's final pay (updated Oct 2020)

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 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.

Time for payment of entitlements on termination of employment

As of 26 August 2019, clause 16.3 of the Pastoral Award 2020 has been varied to provide different time frames for the payment of entitlements on termination of employment.

1. Wages up until the day of termination including wages for any period of unworked notice must be paid either:
 - By cash or cheque on the day of termination, OR
 - Forwarded to the employee by post the next working day
 - By EFT no later than 7 days after the day of termination.
2. Other entitlements such as accrued annual leave either:
 - By cash or cheque on the day of termination, OR
 - Forwarded to the employee by post as soon as reasonably practicable but no later than 7 days after the day of termination
 - By EFT no later than 7 days after the day of termination.

State laws about Long Service leave may provide different time frames for payment - read more at the state laws at <https://www.thepeopleindairy.org.au/engagement-reward/state-industrial-laws>

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 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: www.fairwork.gov.au/employee-entitlements/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 more than 15 employees, The National Employment Standards provide for redundancy pay that depends upon the length of service. For specific information on redundancy visit:

www.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:
www.thepeopleindairy.org.au/engagement-reward/state-industrial-laws.htm

- **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 superannuation applicable?

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
- Annual leave loading
- Payment in lieu of notice
- Other payments made by an employer on termination of employment

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: www.thepeopleindairy.org.au/engagement-reward/termination
3. Redundancy is difficult for both the employer and employee – employers should contact a farm adviser and get legal advice.
4. The Pastoral Award 2020 requirements for payment of final pay have been varied
5. Some payments made on termination are taxed differently, so employers should speak to their accountant when preparing a final pay.
6. Employers can choose to pay out the notice period. This is usually advisable if the relationship between employer and employee has broken down. The pay should be the amount the employee would have earned had they worked the minimum notice period.

For more information:

- Visit Dairy Australia's The People in Dairy website to access a range of industry specific human resources: www.thepeopleindairy.org.au
- Check Fairwork Australia's National Employment Standards:
www.fairwork.gov.au/employee-entitlements/national-employment-standards