

Enterprise Agreement 2012-2015

Termination of Employment

70 Notice of termination

70.1 Subject to clause 70.5 below, where an employee's employment is terminated under subsection 16(3) or subsection 23(2) of the MOP(S) Act, the employee is entitled to a period of notice of termination or a payment in lieu of notice calculated as follows:

Length of continuous service employed by the Commonwealth (including service under the MOP(S) Act with other Members)	Period of notice
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

70.2 Where an employee is over 45 years of age and has completed two years' continuous service at the time of termination the employee will be entitled to one additional week's notice of termination or payment in lieu of notice.

70.3 Where an employee's employment is terminated within the employee's probationary period, the employee will be entitled to one week's notice of termination or payment in lieu of notice.

70.4 Where an employee is guilty of serious misconduct (within the meaning of paragraph 1.07 of the Fair Work Regulations), his or her employment may be terminated without notice.

70.5 Clauses 70.1 to 70.4 will not apply to the following groups of employees:

- a. ongoing Commonwealth employees who are on leave, including ongoing APS employees who have been granted leave without pay under the *Prime Minister's Public Service Directions 1999* (as varied or replaced from time to time), to undertake employment under the MOP(S) Act; and
- b. casual employees.

FAIR WORK REGULATIONS 2009 - REG 1.07

Meaning of serious misconduct

(1) For the definition of serious misconduct in section 12 of the Act, serious misconduct has its ordinary meaning.

(2) For subregulation (1), conduct that is serious misconduct includes both of the following:

(a) wilful or deliberate behaviour by an employee that is inconsistent with the continuation of the contract of employment;

(b) conduct that causes serious and imminent risk to:

(i) the health or safety of a person; or

(ii) the reputation, viability or profitability of the employer's business.

(3) For subregulation (1), conduct that is serious misconduct includes each of the following:

(a) the employee, in the course of the employee's employment, engaging in:

(i) theft; or

(ii) fraud; or

(iii) assault;

(b) the employee being intoxicated at work;

(c) the employee refusing to carry out a lawful and reasonable instruction that is consistent with the employee's contract of employment.