

How Much Notice Do I Have to Give If I'm Resigning During My Probation Period?



On probation but want to resign? Although probationary periods are common when starting a new job, the notice you are required to give when leaving varies.

Normally, when resigning from your job, you have to provide a notice period. This is usually stipulated in employment contracts and national regulation. However, what is often unclear are the obligations if you resign whilst still on probation.

You may think it's safe to assume that you don't have to give any notice – but this isn't always the case. Below we will discuss the ways you can find out what your notice period should be, so you can depart not only on good terms – but on fair terms.

How does a probationary period work?

Permanent part time and full time employees often undertake a 'probationary period' when commencing a new role. This often lasts between 3 and 6 months, but can be shorter or longer. During this time, both the employer and employee have the chance to see if they're the right fit for the role. This effectively a time when an employee is doing the job on a trial basis. At the end of the probationary period, if the employer and employee are both happy with the arrangement, then the employee becomes a permanent employee and can enjoy all the protections that come along with it.

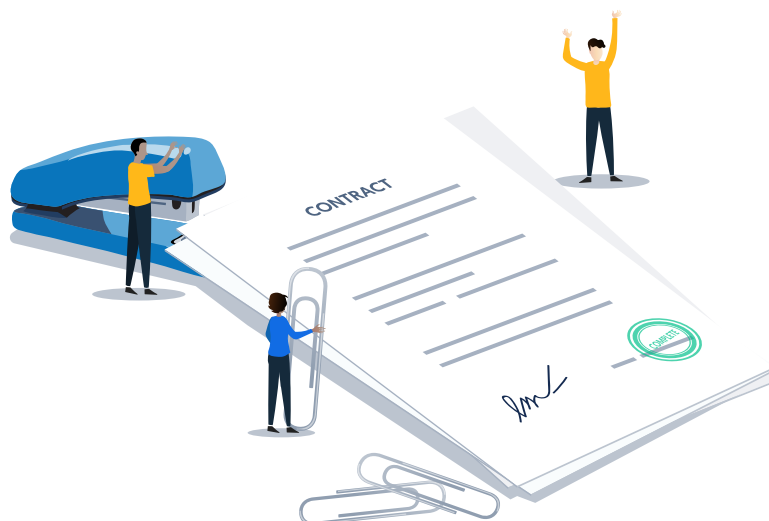
If either an employer or employee decide that the arrangement isn't working out, the employee can be terminated with little to no notice. Similarly, an employee can usually resign 'on the spot' with little notice. However, if your probationary period is covered under contract, it is likely that a short notice period will apply.

Check your employment type

Often, the [notice period](#) you are required to give will depend on the basis on which you are employed. For casual employees, no notice period is required. This applies to both the employer and employee. This means that you can resign from a job without having to work any additional period afterwards. Conversely, an employer can terminate you without any notice or payment in lieu of notice. It is for this reason that probation periods ordinarily do not apply to employees employed on a casual basis.

Employees who work on a full or part time basis can only be terminated without notice if misconduct has occurred.

In cases where misconduct has not occurred, the standard notice period (whether you have a contract or not) is 1 to 2 weeks during probation. However, the amount of notice you have to give is also dependant on the award you're classified under. Similarly, it also comes under the industry that you work in.



Check the terms of your contract

If you signed an [employment contract](#), carefully read the clauses relating to termination, notice periods and your probation period. From this, you can determine what your obligations are. If you don't want to work out the required notice in your contract, tell your employer and explain why. They can choose for you to not work out your notice and pay you in lieu of it. Alternatively, they can request that you work it out whilst they find someone to fill your role.

If you're still unsure, or are concerned that you may end up breaching your contract, speak with an [employment lawyer](#).

Check the requirements under your award

Depending on your award, different standards will apply. For example, sometime employed full time under the building and construction award will only have to give 1 week's notice. However, this changes once your probation period lapses. You can calculate both your leave entitlements and your required notice period by visiting the [Fair Work Ombudsman](#) website.

Put your resignation in writing

Once you have determined how much notice you have to give, it's always important to formalise it [in writing](#). Clearly state how much notice you will be giving, and if relevant, refer to either the employment contract or award in your letter. This is particularly useful if you're worried that your employer may dispute it. It's important in circumstances such as these to not only comply with any terms specified in your contract or under your award, but also understand your rights as an employee.



Example

Michael works full time at a investment bank. He has been working there for 2 months. His probationary period is for 6 months. He has decided to resign, but he has never been offered a formal employment contract with the bank. After researching his obligations, he has provided the bank with 1 week's notice. He has written this in his resignation letter and cited the law. The bank tries to say that he needs to give them 4 weeks' notice and threatens to sue him. Michael points to the letter, and upon his employer's investigation, they realise that he only has to give them 1 week's notice. This is because he has not been employed under contract, and so is only obliged to provide notice according to legislation.

Finally

A probationary period fundamentally means that an employer or employee can 'walk away' without having to worry about working out a long notice period. However, even when you're under probation, it's important to understand what notice you're required to give. It's one thing to not want to burn any bridges, but another to also leave on fair (and legal) terms.

How Lawpath can help?

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