

Employment Starter Kit initiative

ESKi

DELIVERING
for **DAIRY**

Foreword

Your commitment to employing staff is a credit to you and your business.

It is an ongoing challenge to set yourself up for success by finding the right staff and providing appropriate rewards and recognition of their work. I am regularly impressed by people who do this well.

This Employment Starter Kit Initiative (ESKi) is used by over 2,000 farmers. It's the go-to folder for the latest information regarding employment, safety and managing people on dairy farms. We regularly review the ESKi so that it is current and we are committed to providing updated information so that you can keep up with the expectations of you as an employer.

Please visit thepeopleindairy.org.au/eski to access the ESKi online, stay up to date and register to receive email updates, such as minimum annual pay rates and changes to the Pastoral Award 2020.

Our aim is to make employment information accessible and easy to tailor to your business. This includes a range of contract templates and forms in this folder, and online, that can be adapted to your needs.

You can also access local workforce advice and attend employment workshops that are provided by your Regional Development Program. To find out more about what is happening in your region please visit dairyaustralia.com.au/about-us.



A handwritten signature in black ink, appearing to read 'D Nation', written over a horizontal line.

David Nation Managing Director

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What's in the ESKi

The Law

Things every employer should know.

Whether you're hiring staff for the first time, or have been an employer for a while, it's important that you understand what the law requires you to do. This section provides the resources to help you understand your rights and responsibilities.

- Pastoral Award 2020
- National Employment Standards.

Payroll

Nuts and bolts

There are many things to think about when you're hiring staff. This list will help you get started.

- Their classification under the Pastoral Award 2020
- Their minimum pay
- Whether the position will be full-time, part-time or casual
- Breaks, maximum hours of work and overtime.
- Record keeping
- Pay slips
- Tax
- Superannuation
- Time keeping.

Annualised salary

How to pay an annualised wage or salary instead of an hourly rate

The Pastoral Award 2020 has been varied to enable employers and employees to agree in writing for the employee to be paid an annualised wage or a salary instead of being paid an hourly rate. This is similar to the IFA and may be useful for farmers provided they keep excellent time records.

Termination

Handle employee separation carefully

Regardless of whether the employee is leaving because of resignation, redundancy or dismissal, following the right procedures minimises the risk of legal action and protects the reputation of both your business and you as an employer.

Pastoral Award 2020

What is the Pastoral Award 2020?
What are the National Employment Standards?

Employing someone

Hiring and keeping staff is much more than compliance with the law.

For an employment relationship to work, both employer and employee must share the same expectations about the job. To make sure you are both 'on the same page', there are three documents you can't live without:

- The position description
- The employment contract
- The employee details form

Leave

What are employees' leave entitlements?

The National Employment Standards (NES) apply to all employees in the national workplace relations system. Casual employees get only some of the entitlements. There are seven types of leave entitlements in the NES:

- Annual leave
- Personal/carer's leave, compassionate leave, family and domestic violence leave
- Community service leave
- Long service leave
- Parental leave.

Individual flexibility agreement

How to pay a flat rate for all hours worked

The Pastoral Award 2020 includes a flexibility term which enables employers and employees to agree on a flat rate of pay for all hours worked, using an Individual Flexibility Agreement. The employer must ensure the employee is better off overall under the agreement as compared with the Pastoral Award 2020.

Safety

How safe is your farm?

You can use our dairy farm safety checklists to make sure you're meeting your obligations.

Information provided in this folder is also available at thepeopleindairy.org.au/eski

Getting started

The aim of the Employment Starter Kit Initiative (ESKi) is to make it straightforward for farmers to employ staff and to minimise business risk around getting it wrong.

The ESKi provides easy access to the documents you need to start employing someone. Starting off on the right foot markedly increases the chance that staff will be retained and more productive.

The entire resource is based around 8 topics that appear on the previous page. Each topic starts with explanatory notes, followed by the relevant documents and templates.

Many templates are self-explanatory. Others are preceded by notes, a sample and a blank template. Be sure to take copies of the blank templates before you use them.

Use the checklists at the end of each section

A good starting point is the tick list at the end of each section, which signposts the relevant samples, checklists and templates.

Buy yourself a ring binder

Use it to keep all your employee files in one place.

Make extra copies of the templates you use all the time (scan and keep electronic copies of all documents).

Test your knowledge

In the **Payroll Section**, you'll find a Fair Work **Self-audit checklist** for business. This is designed to find out how compliant your business is with certain key requirements of the Fair Work Act and associated other laws.

Don't stress if you can't complete the checklist on the first go – consume your ESKi contents, and then try again ... this time you'll be home and hosed!



Items marked with a flag are required by law.



Items marked with a big tick are **Best Practice Tips** (although not required by law).

If a phrase is in bold, it refers to a document or template in the ESKi.



Look of this icon throughout your folder to indicate pages you should check and update (as required). This is just a guide but will make updating a bit easier!

Visit the ESKi at thepeopleindairy.org.au/eski and stay up to date. If you're not receiving email updates, get in touch via the website.

ESKi updates and further support

The ESKi is designed to get you started – it is integrated with the People in Dairy online resources for your ongoing support. The ESKi provides a pathway in to the detailed resources on the People in Dairy website, designed to help you manage people on your farm.

It's your responsibility to keep your ESKi up to date.

The Fair Work Commission reviews wages annually –The Fair Work Commission reviews wages annually this may impact on pay rates (as of 1 July each year). In addition, workplace laws and awards change from time to time.

What's new?

- 2-Mar-2024 2024 Easter public holidays
- 21-Feb-2024 Updated: Federal Permanent Award Contract Template
- 1-Dec-2023 Updated: Federal Permanent Award Contract Template
- 7-Nov-2023 Festive season public holidays 2023/2024
- 2-Nov-2023 Now available: Accommodation page and updated agreement templates
- 2-Nov-2023 Updated: Federal Award Contract Templates
- 4-Oct-2023 Amended Bullying, Discrimination and Harassment policy with procedure
- 9-Aug-2023 Updated Fair Work information statement (Aug 2023)
- 27-Jul-2023 ALERT: Family and Domestic Violence Leave of 10 days' paid leave per 12-month period
- 14-Jul-2023 Updated Pay Rates – July 2023
- 14-Jul-2023 Updated Termination rules – July 2023
- 14-Jul-2023 Updated WA Industrial Laws – July 2023
- 14-Jun-2023 Updated Pastoral Award – June 2023
- 14-Jun-2023 Updated Annualised Salary Calculator June 2023
- 23-May-2023 ALERT: TSMIT INCREASED – 1 JULY 2023
- 23-May-2023 ALERT: PAID PARENTAL LEAVE
- 23-May-2023 ALERT: RESPONDING TO FLEXIBILITY REQUESTS
- 12-May-2023 Sovereign's Birthday Public Holiday
- 29-Mar-2023 UPDATED: 2023 Easter public holidays

Resources for dairy farms to be employers of choice

- A People Approach**: Engaging people, People efficiency, People strategy
- Farm Safety**: Farm safety starter kit, Farm safety manual, Workplace policies
- Recruitment**: Attracting employees, Selection process, Induction
- Employees**: Getting started, Navigating the dairy industry, Employees from overseas
- Performance & Education**: Appraisals, Retention, Training & mentoring
- Working Together**: Teamwork, Communication, Positive culture
- Planning For The Future**: Career planning, Transition, Succession & share farming
- Employment & Reward**: Pay rates, The law, Agreements & entitlements

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ESKi glossary

Annualised salary: An agreement that enables employers and employees to agree in writing for the employee to be paid an annualised wage or a salary instead of being paid an hourly rate. This is similar to the IFA and may be useful for farmers provided they keep excellent time records.

Apprentice: An employee that is employed under a 'training arrangement'. A 'training arrangement' is a combination of work and training that is subject to a training agreement or a training contract between the employee and employer that takes effect under a State or Territory law relating to training employees.

Allowances: Additional payments made to employees for undertaking certain tasks, possessing a skill, using their own tools or performing work under adverse conditions. Types of allowances in the Pastoral Award include vehicle, tool and equipment, and allowances which recognise specific skills and responsibilities.

Australian Business Number (ABN): A unique identifier issued by the Australian Business Register (ABR), which is operated by the Australian Taxation Office (ATO).

Award rate of pay: The minimum rate of pay that may legally be paid to an employee who is covered by an award. An award generally contains a number of rates that vary according to the age of the employee and the employee's classification.

Bonus: An amount of money paid to an employee when a set target has been achieved.

BOOT: The BOOT (Better off overall test) requires that each employee covered by an award must be better off under an enterprise agreement or an individual flexibility agreement than they would be if the relevant award applied to them. The BOOT allows some award conditions to be traded off or excluded as long as the total remuneration and/or benefits received by the employee leave them better off than if the conditions remained the same.

Casual employees: A person is a casual employee if they accept a job offer from an employer knowing that there is no firm advance commitment to ongoing work with an agreed pattern of work. They receive a loading on top of normal wages because they do not receive benefits such as paid annual leave and paid personal (sick) leave.

Carer's leave: Leave taken to provide care or support to a member of the employee's 'immediate family' or household who requires care or support due to personal injury or illness or an unexpected emergency.

Casual loading: Casual loading is an amount paid on top of the base rate of pay to casual employees. The purpose of a casual loading is to compensate casual employees for not being paid certain entitlements that permanent employees receive, such as paid annual leave and personal (sick) leave.

Contractor: A person or company that enters into a contract to provide materials or do a job.

Days in lieu: Working days given as paid days off to compensate for unpaid or overtime.

Discrimination (unlawful): When someone is not treated fairly or given the same opportunities because of personal characteristics or attributes. It is unlawful for an employer to discriminate against an employee or prospective employee on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

Exceptions apply where the discrimination is:

- authorised by or under a State or Territory anti-discrimination law
- taken because of the inherent requirements of the particular position concerned
- taken against certain persons in good faith for religious reasons.

Fair Work Commission (FWC): The Fair Work Commission is the national workplace relations tribunal, established by the Fair Work Act. It is an independent body with power to carry out a range of functions covering:

- the safety net of minimum wages and employment conditions
- enterprise bargaining
- industrial action
- dispute resolution
- termination of employment.

Family and domestic violence leave: Paid leave of 10 days per year for domestic violence victims to deal with family and domestic violence.

Gross salary: The total amount paid to an employee before any deductions (like income tax) have been made.

Group Certificates: see Payment Summary.

Immediate family: is defined as:

- A spouse, child, parent, grandparent, grandchild or sibling of the employee
- A child, parent grandparent, grandchild or sibling of a spouse of the employee.

Individual Flexibility Agreement (IFA): An agreement between an employer and an employee, that can vary the effect of some conditions of an award. The Individual Flexibility Agreement (IFA) must pass the better off overall test (BOOT).

Induction: The formal introduction to systems and procedures given to employees when they start a new job.

Leave loading: An award condition that provides for a pay bonus to be paid when annual leave is taken or on termination of employment when accrued annual leave is paid out. It is calculated at 17.5 per cent of the annual leave being paid.

Modern Award: An award made by the Australian Industrial Relations Commission as part of the award modernisation process in 2008 and 2009. Modern awards operate together with the National Employment Standards (NES) to provide minimum conditions of employment for employers and employees in the 'national system'. Modern awards supplement the NES by setting out additional minimum terms and conditions that apply in a particular industry or occupation including monetary entitlements such as wages, penalty rates and allowances. The Pastoral Award 2020, which covers most employees in the dairy industry, is a modern Award which replaces various State and federal awards. Modern awards commenced operation on 1 January 2010.

National Employment Standards (NES): A safety net of 12 minimum conditions, set out by law, in the Fair Work Act, for all employees.

Net salary: The amount paid to an employee after the relevant deductions (like income tax) have been made.

Parental leave: The entitlement of both male and female employees to take unpaid leave when their child is born or adopted.

Part-time employees: Employees who are engaged for a numbers of hours that are less than those for full-time employees. Part-time workers generally receive the same entitlements and benefits as full-time workers on a proportional (pro rata) basis.

Pastoral Award 2020: Awards are legal documents setting out minimum rates of pay and conditions of employment which apply to employees in a particular industry or occupation. As of 1 January 2010, the federal Pastoral Award 2020 covers employees in the dairy industry.

PAYG withholding: Pay as you go (PAYG) withholding is a legal requirement to withhold amounts (for income tax purposes) from payments made to employees for salary and wages.

Payment summary: You need to give those workers from whom you have withheld tax an annual payment summary, which shows the total payments you made to them in the financial year and how much tax you have withheld from their payments. These payment summaries contain all of the information needed for the employee to lodge a tax return and can be either electronic or in paper form.

Penalty Rates: Extra money paid to employees for working at times such as public holidays.

Personal Leave: is leave taken because the employee is not fit for work because of personal injury or illness. Under the National Employment Standards full time employees are entitled to 10 days' paid personal/carer's leave per year. Paid personal leave accumulates from year to year.

RDO: Rostered days off

Redundancy: Occurs when an employer no longer wishes the job that an employee has been performing to be undertaken by anyone- e.g., as the result of a business restructure. It has nothing to do with poor performance or misconduct.

Sick Leave : See personal leave

Things every employer should know

Whether you're hiring staff for the first time, or have been an employer for a while, it's important that you understand what the law requires you to do. This section provides the resources to help you understand your rights and responsibilities.

Give all new employees a copy of the Fair Work Information Statement

By law, you must give all new employees a copy of the **Fair Work Information Statement**, which provides basic information on matters that will affect their employment including:

- the National Employment Standards
- how a transfer of business affects entitlements
- modern awards
- agreements under the Fair Work Act 2009
- ending employment
- right of entry (including privacy laws to protect personal information)
- the Fair Work Ombudsman and the Fair Work Commission.



Resource in this section

- Fair Work Information Statement
- FAQ – Contractor or employee?
- FAQ – Share dairy farmer or employee?

The Pastoral Award 2020 and the National Employment Standards are bulky documents which, for your convenience, are located at the back of this ESKi folder.



You must give all new employees a copy of the **Fair Work Information Statement**.



You must make a copy of the **National Employment Standards** available to all employees.



Best Practice Tip

Copy the Fair Work Information Statement in this section and give one to all new employees.

Ensure employees have access to the National Employment Standards

By law, you must make a copy of **The National Employment Standards** (also known as the NES) available to all employees. You can pin a copy to a conveniently located noticeboard, or use electronic means, whichever makes them more accessible. The NES are a safety net of 12 minimum conditions, set out by law, for all full- and part-time employees. These are:

- A maximum standard working work of 38 hours for full-time employees, plus 'reasonable' additional hours.
- A right to request family friendly flexible working arrangements for employees with caring responsibilities, parents or guardians of children that are school age or younger, employees with disability, employees who are 55 years or older, and employees who are experiencing family violence or who are caring for or supporting a family or household member who is experiencing family violence.
- Offers and requests to convert from casual employment to permanent employment
- Parental and adoption leave of 12 months (unpaid), with a right to request an additional 12 months.
- Four weeks paid annual leave each year.
- Ten days paid personal/carer's leave each year, two days paid compassionate leave for each permissible occasion; and two days unpaid carer's leave (once the ten paid days are used up) for each permissible occasion; and 10 days paid domestic violence leave (in a 12 month period).
- Community service leave for jury service or activities dealing with emergencies or natural disasters. This leave is unpaid except for jury service.
- Long service leave.
- Public holidays and the entitlement to be paid for ordinary hours on those days.
- Superannuation contributions
- Notice of termination and redundancy pay.
- The right for new employees to receive the **Fair Work Information Statement** - and the **casual Employment Information Statement**.

Some of these conditions also apply to casual employees.

Ensure employees have access to the Pastoral Award 2020

By law, you must make a copy of the **Pastoral Award 2020** available to all employees. As with the NES, you can pin the Award to a noticeboard or distribute electronically, whichever gives employees the best access. As of 1 January 2010 the federal Pastoral Award 2020 covers all employees in the dairy industry, except some managers (and some employees in WA).

Full copies of both the Pastoral Award 2020 (with relevant sections highlighted) and the National Employment Standards are included at the back of the ESKi folder.

Ensure that you're giving your employees all their entitlements, such as minimum wages

To make sure you're giving your employees all of their entitlements, you need to read the Pastoral Award 2020. The Pastoral Award sets minimum wages and conditions for dairy industry employees which apply on top of the National Employment Standards.

Clause 32 of the Pastoral Award 2020 deals with minimum wages, which is the lowest amount which can legally be paid to an employee. These minimum wage rates are reviewed each year by the Fair Work Commission. This is called the 'annual wage review'. Any changes to minimum wages start to apply from the first full pay period on or after 1 July.

Your employee's minimum wages depend on a number of things, including:

- their age (if they're under 20)
- their job duties, responsibilities and any qualifications they're required to have.

Other commonly overlooked entitlements are:

- loading for casual workers
- minimum three-hour shift length for casual or part-time employees
- 17.5 per cent loading for annual leave.



You must make a copy of the **Pastoral Award 2020** available to all employees.



You must check that employees from overseas have a valid work visa.

Things to avoid

You should make sure you, your managers and staff understand the laws that apply on your farm. These are a few key things that aren't okay in the workplace:

- **Unpaid work trials.** You can't ask people to work for free.
- Cash in hand payments. It's against the law to pay an employee without taking out tax. This is called paying someone 'cash in hand.' You can pay an employee in cash as long as you deduct tax from their earnings and send it to the Australian Taxation Office (ATO). For information on tax law, contact the ATO.
- Not giving employees a pay slip within 1 day of being paid. You need to give them a pay slip that has certain information on it – see **Payroll Section** for details and a template.
- Not paying employees in money – giving them goods (including food) or services instead of pay is against the law.
- Making unlawful deductions from employees' pay. Payroll deductions can only be made in very limited circumstances – refer to **Payroll Section**.
- Not giving employees the meal breaks or rest breaks set out in the award or agreement.
- Unreasonably refusing employee requests to take their leave entitlements.
- Sham contracting. Independent contracting is where one business does work for another business. Independent contractors usually use their own equipment, choose what hours they work, decide how they do the work, pay their own tax and have an ABN. Some employers try to avoid paying minimum rates, tax and entitlements by claiming that someone is an independent contractor when really they're an employee. This is called 'sham contracting', and it is illegal – refer to the **FAQ – Contractor or employee?**

Is your employee entitled to work in Australia?

It is a criminal offence to knowingly or recklessly allow someone to work in breach of their visa conditions. To avoid penalties, ensure your prospective employee has a valid visa to work in Australia before you employ them.

Fair Work audits do happen!

Fair Work Inspectors regularly audits or conducts face-to-face visits with randomly selected employers.

Inspectors check employers are complying with record-keeping and pay slip obligations, including giving employees sufficiently detailed pay slips within one working day of pay and keeping correct time-and-wages records.

The Law checklist

- Have all employees been given a copy of the Fair Work Information Statement?
- Have all casual employees been given a copy of the Casual Employment Information Statement?
- Is the Pastoral Award 2020 available to all employees covered by the award?
- Are the National Employment Standards available to all employees?
- Are all casual and part time employees engaged for a minimum of 3 hours? Note: exception for secondary school students.
- Do you pay 17.5 per cent leave loading on holiday pay?
- Does your employee have a valid Australian work visa?
- Do you know the difference between a contractor and an employee?



Learn more

Visit the ESKi at:
thepeopleindairy.org.au/eski



Introduction to the National Employment Standards

What are the National Employment Standards?

The National Employment Standards (NES) are minimum employment entitlements that have to be provided to all employees in the [national workplace relations system](#). Some rules and exclusions apply.

The minimum entitlements of the NES are:

- [Maximum weekly hours of work](#) – 38 hours per week, plus reasonable additional hours.
- [Requests for flexible working arrangements](#) – certain employees can ask to change their working arrangements.
- [Parental leave and related entitlements](#) – up to 12 months of unpaid leave and the right to ask for an extra 12 months of unpaid leave. Also includes adoption-related leave.
- [Annual leave](#) – 4 weeks of paid leave per year, plus an additional week for some shiftworkers.
- [Sick and carer's leave and compassionate leave](#) – 10 days of paid sick and carer's leave (pro rata for part-time employees), 2 days of unpaid carer's leave as required and 2 days of compassionate leave as required.
- [Family and domestic violence leave](#) – 10 days of paid leave per year.
- [Community service leave](#) – unpaid leave for voluntary emergency activities and leave for jury service, with an entitlement to be paid for up to 10 days for jury service.
- [Long service leave](#) – paid leave for employees who have been with the same employer for a long time.
- [Public holidays](#) – a paid day off on a public holiday (unpaid for casuals), except where reasonably requested to work.
- [Notice of termination and redundancy pay](#) – up to 5 weeks' notice of termination and up to 16 weeks redundancy pay, both based on length of service.

- [Superannuation \(super\)](#) – employers must make contributions to eligible employees' super funds under super guarantee laws. Super is also a NES entitlement (some exclusions apply). For more information see our [Tax and superannuation page](#) at fairwork.gov.au/super
- Provision of the [Fair Work Information Statement](#) and the [Casual Employment Information Statement](#) – the Fair Work Information Statement must be provided by employers to all new employees. Casual employees must also be given the Casual Employment Information Statement.
- [Casual conversion](#) – the right for casual employees to become permanent employees.

Who do the NES apply to?

The NES apply to all employees covered by the national workplace relations system, however only certain entitlements apply to casual employees (rules and exclusions apply).

These are:

- maximum weekly hours
- 2 days of unpaid carer's leave and 2 days of unpaid compassionate leave per occasion
- 10 days of paid family and domestic violence leave (in a 12-month period)
- community service leave (except paid jury service)
- public holidays
- the Fair Work Information Statement and the Casual Employment Information Statement
- the right to super contributions
- right to casual conversion.

Casual employees have the right to become a permanent (full-time or part-time) employee in some circumstances. This is known as 'casual conversion'. This can be a requirement for the employer to offer their employee casual conversion, or a right for the employee to request it.

In addition, casual employees who have been employed for at least 12 months by an employer on a regular and systematic basis and with an expectation of ongoing employment are entitled to:

- make requests for flexible working arrangements
- parental leave and related entitlements

There are also 2 NES entitlements that apply to all full-time and part-time employees, whether they are covered by the national workplace relations system or not. These are:

- parental leave and related entitlements
- notice of termination.

How do the NES apply?

Terms in awards, registered agreements and employment contracts cannot exclude or provide for an entitlement less than the NES, and those that do have no effect. However, they can affect the operation of the NES in certain ways.

For example, they may specify terms that deal with:

- averaging an employee's ordinary hours of work
- the cashing out and taking of paid annual leave
- the cashing out of paid sick and carer's leave
- extra sick and carer's leave or annual leave in exchange for foregoing an equivalent amount of pay
- the substitution of public holidays
- super obligations
- situations in which redundancy entitlements do not apply.

They may also supplement the NES by providing entitlements that are more favourable for employees.

Find out more about the [NES entitlements](https://www.fairwork.gov.au/nas) at [fairwork.gov.au/nas](https://www.fairwork.gov.au/nas)

CONTACT US

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: **13 13 94**

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: **13 36 77**

Ask for the Fair Work Infoline **13 13 94**

Speak & Listen: **1300 555 727**

Ask for the Fair Work Infoline **13 13 94**

The Fair Work Ombudsman is committed to providing you with advice that you can rely on. The information contained in this fact sheet is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or a workplace relations professional.

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Fair Work
OMBUDSMAN

Fair Work Information Statement

Employers must give this document to new employees when they start work.
See fairwork.gov.au/fwis

Important information about your pay and conditions

Employees in Australia have entitlements and protections at work, under:

Fair Work Laws	Awards	Enterprise agreements	Employment contracts
<ul style="list-style-type: none"> ▶ minimum entitlements for all employees ▶ includes the National Employment Standards 	<ul style="list-style-type: none"> ▶ set minimum pay and conditions for an industry or occupation ▶ cover most employees in Australia 	<ul style="list-style-type: none"> ▶ set minimum pay and conditions for a particular workplace ▶ negotiated and approved through a formal process 	<ul style="list-style-type: none"> ▶ provide additional conditions for an individual employee ▶ can't reduce or remove minimum entitlements

Find your award at fairwork.gov.au/awards

Check if your workplace has an enterprise agreement at fwc.gov.au/agreements



Other information statements

Depending on your employment type you may also need to be given other information statements when you start work or enter into a fixed term contract.

For **casual employees** that includes the Casual Employment Information Statement, available at fairwork.gov.au/ceis

For employees **engaged on a fixed term contract** that includes the Fixed Term Contract Information Statement available at fairwork.gov.au/ftcis



Your pay

Your **minimum pay rates are in your award or enterprise agreement**. If there is no award or agreement for your job, you must get at least the National Minimum Wage. Minimum pay rates are usually updated yearly.

Find out what you should get at fairwork.gov.au/minimum-wages

National minimum wage
From 1 July 2023



\$23.23/hour or \$882.80/week
(based on a 38 hour week)
for full-time employees



\$23.23/hour
for part-time employees



\$29.04/hour
for casual employees

This is the adult minimum rate for employees with no award or enterprise agreement. Lower rates may apply to juniors, apprentices, trainees and employees with disability whose disability affects their productivity. Lower rates may also apply under some awards, for example rates that apply for a limited time after an employee starts their job. **You can't agree to be paid less than the minimum pay rates that apply for your job.**



Use our free calculators to check your pay, leave and termination entitlements at: fairwork.gov.au/pact



Who can help?

Fair Work Ombudsman

- ▶ has information and advice about pay and entitlements
- ▶ provides free calculators, templates and online courses
- ▶ helps fix workplace problems
- ▶ enforces workplace laws and seeks penalties for breaches of workplace laws.

fairwork.gov.au – 13 13 94

Fair Work Commission

- ▶ deals with disputes about a range of issues, including unfair dismissal, bullying, sexual harassment, discrimination and 'adverse action' at work
- ▶ approves, varies and terminates enterprise agreements
- ▶ makes, reviews and varies awards
- ▶ issues entry permits and resolves industrial disputes
- ▶ regulates registered organisations.

fwc.gov.au – 1300 799 675



National employment standards

The National Employment Standards (NES) are minimum entitlements that apply to all employees. The NES entitlements include the right to receive certain information statements, the right to request flexible working arrangements, and a right to be paid superannuation contributions from your employer. Other NES entitlements are summarised in the table below. Rules and exclusions may apply. **Your award or agreement may provide more.** Find more information on the NES at [fairwork.gov.au/NES](https://www.fairwork.gov.au/NES)

	Full-time and part-time employees	Casual employees
Annual leave	✓ 4 weeks paid leave per year (pro rata for part-time employees) + 1 week for eligible shift workers	✗ No entitlement to paid annual leave
Personal leave (Sick or carer's leave)	✓ 10 days paid leave per year (pro rata for part-time employees)	✗ No entitlement to paid personal leave
Carer's leave	✓ 2 days unpaid leave per permissible occasion (if no paid personal leave left)	✓ 2 days unpaid leave per permissible occasion
Compassionate leave	✓ 2 days paid leave per permissible occasion	✓ 2 days unpaid leave per permissible occasion
Family and domestic violence leave	✓ 10 days paid leave per year	✓ 10 days paid leave per year
Community service leave Jury service Voluntary emergency management activities	<ul style="list-style-type: none"> ✓ 10 days paid leave with make-up pay + unpaid leave as required for jury service ✓ Unpaid leave to engage in other eligible community service (such as voluntary emergency management activities) 	<ul style="list-style-type: none"> ✓ Unpaid leave as required for jury service ✓ Unpaid leave to engage in other eligible community service (such as voluntary emergency management activities)
Long service leave	✓ May be entitled to long service leave under the NES, an enterprise agreement or under state or territory legislation. Amount and eligibility rules vary	✓ May be entitled to long service leave under the NES, an enterprise agreement or under state or territory legislation. Amount and eligibility rules vary
Parental leave Eligible after 12 months employment	✓ 12 months unpaid leave – can extend up to 24 months with employer's agreement	✓ 12 months unpaid leave for regular and systematic casuals – can extend up to 24 months with employer's agreement
Maximum hours of work	<ul style="list-style-type: none"> ✓ Full-time employees – 38 hours per week + reasonable additional hours ✓ Part-time employees – 38 hours or employee's ordinary weekly hours (whichever is less) + reasonable additional hours 	✓ 38 hours or employee's ordinary weekly hours (whichever is less) + reasonable additional hours
Public holidays	✓ A paid day off if you'd normally work. If asked to work you can refuse, if reasonable to do so	✓ An unpaid day off. If asked to work you can refuse, if reasonable to do so
Notice of termination	✓ 1-5 weeks notice (or pay instead of notice) based on length of employment and age	✗ No entitlement to notice of termination
Redundancy pay Eligible after 12 months employment	✓ 4-16 weeks pay based on length of employment (some exclusions apply)	✗ No entitlement to redundancy pay
Casual conversion	✗ Not applicable	✓ The right to become a full-time or part-time employee in some circumstances



Fair Work
OMBUDSMAN

Fair Work Information Statement

Employers must give this document to new employees when they start work.
See fairwork.gov.au/fwis



Flexibility

After 12 months employment, you may have the right to make a **written request for flexible working arrangements**. This includes if you're pregnant, 55 or over, a carer, have a disability, are experiencing family and domestic violence, are supporting a member of your immediate family or household who is experiencing family and domestic violence, or are the parent of, or have caring responsibilities for, a child of school age or younger. Employers need to follow certain rules for responding to a request for flexible work arrangements, including responding in writing within 21 days.

Find out more about these rules at:

fairwork.gov.au/flexibility

You and your employer can also **negotiate an individual flexibility arrangement**. This would change how certain terms in your award or enterprise agreement apply to you. An individual flexibility arrangement must be a genuine choice – it can't be a condition of employment – and it must leave you better off overall.



Right of entry

Union officials with an entry permit can enter the workplace to talk to workers that they're entitled to represent, or to investigate suspected safety issues or breaches of workplace laws.

They must comply with certain requirements, such as notifying the employer, and can inspect or copy certain documents. Strict privacy rules apply to the permit holder, their organisation and your employer to protect your personal information. Find out more at:

fwc.gov.au/entry-permits



Agreement making

Enterprise agreements are negotiated between an employer (or one or more related employers), their employees, and any employee representatives (for example, a union). This process is called 'bargaining' and has to follow set rules. The Fair Work Commission checks and approves agreements. For information about making, varying, or terminating an enterprise agreement visit:

fwc.gov.au/agreements



Transfer of business

If a transfer of business occurs, your employment with your old employer ends. If you're employed by the new employer within 3 months to do the same (or similar) job, some of your entitlements might carry over to the new employer. This may happen if, for example, the business is sold or work is outsourced. Find out more at:

fairwork.gov.au/transfer-of-business



Protections at work

All employees have protections at work. You can't be treated differently or worse because you have or exercise a workplace right, for example, the right to request flexible working arrangements, take leave or make a complaint or enquiry about your employment.

You have the right to join a union or choose not to, and to take part in lawful industrial activity or choose not to.

You have the right to talk about (or not talk about) your current or past pay, and the terms and conditions of employment that would be needed to work out your pay (such as your hours of work). You can also ask other employees the same thing (about their pay and terms and conditions of employment) but they don't have to tell you.

You also have protections when temporarily absent from work due to illness or injury, and from discrimination, bullying, sexual harassment, coercion, misrepresentation, sham contracting, and undue influence or pressure.

Find out more at:

fairwork.gov.au/protections

fairwork.gov.au/bullying-harassment



Ending employment

When your employment ends, your final pay should include **all outstanding entitlements**, such as wages and unused annual leave and long service leave.

You may be entitled to **notice of termination**, or pay instead of notice. If you're dismissed for serious misconduct, you're not entitled to notice. If you resign you may have to give your employer notice. To check if notice is required and what should be in your final pay visit:

fairwork.gov.au/ending-employment

If you think your **dismissal was unfair or unlawful**, you have **21 calendar days** to lodge a claim with the Fair Work Commission. Rules and exceptions apply. Find out more at: fwc.gov.au

Did you know:

You can create a free **My account** to save your workplace information in one place:
fairwork.gov.au/register

You can find free **online courses** to help you start a new job or have difficult conversations at work:
fairwork.gov.au/learning

You can access a wide range of free **tools and resources**, such as templates, best practice guides and fact sheets:
fairwork.gov.au/tools-and-resources

Contractor or employee?

Frequently asked questions

Farmers may choose to engage an independent contractor when they have a specific job which needs to be done by a person with a particular skill, for instance, silage making or hay making.

It is important to be able to distinguish between an independent contractor and an employee as the law imposes different rights and obligations on those who engage independent contractors and those who engage employees.

What is a contractor?

A contractor is someone who you pay for a service. They can choose to take the job, they can delegate who does the task, they are responsible for getting the job done and they supply their own equipment. They have an ABN and are responsible for their own Workcover and super.

What is the difference between a contractor and an employee?

An independent contractor is a person who works under a written commercial contract or a written contract for services. The independent contractor can operate as an individual or through a partnership, company or trust.

An employee is defined as a person who works under an employment contract or a contract of service.

If a person working on a dairy farm has nothing else to sell other than their labour, then they will more than likely be an employee, not a contractor. Someone does not become a contractor simply by supplying an ABN.

Can I employ a relief milker as a contractor?

It is unlikely that a relief milker would be a contractor.

Further reading

Read about independent contractors, including a draft contract for services on dairy farm template and understanding criteria to qualify as an independent contractor vs employees - visit thepeopleindairy.org.au/employment-rewards/independent-contractors

Want to know more?

Visit thepeopleindairy.org.au and use the search box at the top right of the screen. Type in a keyword, click Search to bring up a list of related topics.

The Law

Sham contracts

The federal industrial laws make it an offence to do any of the following and significant penalties apply:

- dismiss an employee for the purpose of engaging them as an independent contractor;
- represent an employment relationship as independent contracting;
- make a false statement for the purpose of influencing or persuading an individual to enter into an independent contract

Common law

Employment is regulated by state and federal industrial relations laws including awards. An employee does not have the right to control how and when work is performed and cannot delegate work to others.

Some laws such as workers compensation and superannuation laws as well as some taxation laws deem workers to be employees regardless of the common law definition.

Because industrial laws about employment do not apply to independent contractors some people think that if they call a person a contractor they will be able to avoid these responsibilities. This is not the case.

Calling a person an independent contractor, when the true nature of their engagement is as an employee, does not avoid these laws applying.

Contractor v. employee

The law about independent contractors has changed in 2024 and whilst it is still important that there be a comprehensive written contract which details the parties' obligations, how the contract is actually performed in practice is a key consideration.

The totality or true nature of the relationship is key to deciding if a person is in practice an employee or an independent contractor.

There are a number of questions which can be asked to help decide whether a person will be considered to be an independent contractor at common law.

- Control - how much control does the principal have over the work done by the contractor? A Contractor will be able to control how and when work is done.
- Delegation - can the contractor delegate all or some of the work or do they have to do it personally? A contractor will usually have the right to delegate the work to another person or entity.
- Can it be said that the contractor is working in their own business? A contractor will be running their own business.
- Does the contract provide for payment by fixed fee related to outcome or achievement of a satisfactory result rather than a time based pay rate? It would be unusual for a contractor to be paid by the hour for their labour alone.
- Does the contractor have invoicing systems, standard terms of trade, insurance, debt collecting systems, appropriate financial records etc. which businesses commonly use?

The following questions can also be asked to help to decide if the true nature of the relationship is one of employee and employer or contractor and principal.

- Is the person doing similar work for other people?
- Do they advertise their services to the public?
- Does the work lead to an ability to make a profit or is the work the same as an employee would do for wages?
- Was the contract price negotiated commercially?
- Does the person bear the risk for poor performance?
- Does the person use their own assets, tools and equipment to do the work?
- Does the person benefit from good will?
- Has the person agreed to provide a particular outcome or result and when the result has been achieved will they leave?

If the answers to these questions are no then it is unlikely that the person will be found to be a contractor.

Share dairy farmer or employee?

Frequently asked questions

If the share farmer has no control over the way work is performed, they are likely to be considered at law to be an employee regardless of whether they are called a share farmer. This means that the entitlements and responsibilities of an employment relationship will apply, e.g. benefits such as annual leave, personal leave and long service leave.

What is the difference between a share farmer and an employee?

It is essential to determine whether the person you are seeking to engage is a true share farmer or an employee at common law. The distinction is important as the law imposes different rights and obligations on those who engage independent contractors and those who engage employees. An employer is required by law to provide benefits such as annual leave, personal leave and long service leave, whereas there is no such obligation to provide these benefits to an independent contractor.

A true share farmer will:

- have a comprehensive written contract with you
- be responsible for a fair proportion of the costs of the business, bring assets (or have the ability to accrue assets) such as machinery, mobile plant and stock to the arrangement
- have the ability to increase wealth as a result of the work he or she performs under the share farming agreement. (It is important that this be recorded in the financial records of each party)
- have the ability to make relevant management decisions
- be able to delegate or employ others to do some or all of the work even if they do not do so
- be responsible for their mistakes and be required to rectify them at their own cost
- decide how some or all of the work will be performed and when.

Further reading

The Model Code of Practice for Share Dairy Farming has guidelines and 4 tools for assessing and establishing share farming arrangements. Use this with a dairy advisor - visit thepeopleindairy.org.au/employment-rewards/share-dairy-farming

Stepping Stones provides information on the different types of career opportunities on a dairy farm, exploring pathways available to both start or progress a dairy career. Visit thepeopleindairy.org.au/planning-for-the-future/stepping-stones

Learn more about independent contractors. Visit thepeopleindairy.org.au/employment-rewards/independent-contractors

Shared equity arrangements - visit thepeopleindairy.org.au/planning-for-the-future/shared-equity-arrangements

What about paying a share of the milk income?

Paying a person a share of the milk income does not make the person a share farmer. A person will be an employee unless they have some control of the farm business, contribute significant capital or assets and have a choice in the way the business is operated. This should be recorded in a written contract.

Employees covered by the award must be paid the award rates of pay and other entitlements.

How do I calculate the share?

Discussing and developing a share farming arrangement is best done with the help of a consultant or dairy adviser.

Once an agreement has been reached then get the financial and legal aspects checked by an accountant and solicitor.

Your **state dairy farming organisation** can also provide advice on share farming arrangements: australiandairyfarmers.com.au/national-dairy-advocates-australia/industry-organisational-structure

How can I avoid trouble?

The following areas historically seem to create conflict within share farming situations and need to be clarified at the commencement of any arrangement:

- longer term goals and direction of the farm business, eg which dairy company to supply and decisions on stocking rate;
- general farm presentation and standards;
- responsibility for decision making around daily activities, eg what grain mix to feed, which cows to cull, which calves to keep, which bulls to choose, feeding and grazing decisions, when to irrigate;
- expectations about labour provision, especially if the share farmers are a 'couple';
- expectation on the quality of herd records;
- ownership and payment issues for fodder and fertiliser (also needs to be clarified for termination);
- dealing with stock and machinery upon termination of the agreement.

Discussing and developing a share farming arrangement is best done with the help of a consultant or dairy adviser.

The **Model Code of Practice for Share Dairy Farming**.

Once an agreement has been reached, get the financial and legal aspects checked by an accountant and solicitor.

Visit thepeopleindairy.org.au/employment-rewards/share-dairy-farming

SHARE FARMING AGREEMENT BASIC PRINCIPLES

Make sure at the start that both parties share a common picture of the farm's future

The discussion that occurs between an owner and a share farmer in developing a share arrangement often tests the common understanding about the direction of the farm business and, hence, the potential success of the arrangement.

Make sure that the income and cost splitting arrangement provides a fair and reasonable outcome for both parties

There must be a fair distribution of income and costs between the owner and share farmer so that they each obtain a fair and reasonable return on the resources they are providing and the risks they are taking. Other benefits such as the provision of a house, utilities, calves to rear for their own use, etc. should be valued in the agreement discussions.

Calculate anticipated returns jointly

Having discussed a possible splitting of income and costs, based on what is being provided by both parties, both parties need to calculate jointly the anticipated returns to each party (not just themselves) using long-term milk and supplement prices, and with an expectation of average seasonal conditions.

Model the effect of extremes in price and seasonal variation

Once both parties have examined the potential average returns (if possible from historical actual data), it is important to model the effect of extremes in price and seasonal conditions to get an indication of variation in returns to each party. It is common for disputes regarding the 'fairness' of agreements to arise in difficult years due to the financial pressure on both parties; if the fairness is established at the start it reduces the chance of disputes in difficult years.

Ensure returns on labour and capital are fair

The return to a share farmer for labour should be higher than the amount the share farmer could receive as an employee, since this amount may include superannuation, holidays, personal leave and, in some cases, workers compensation. Some return may be in growth in equity rather than cash return.

Hiring and retaining staff is more than compliance with the law

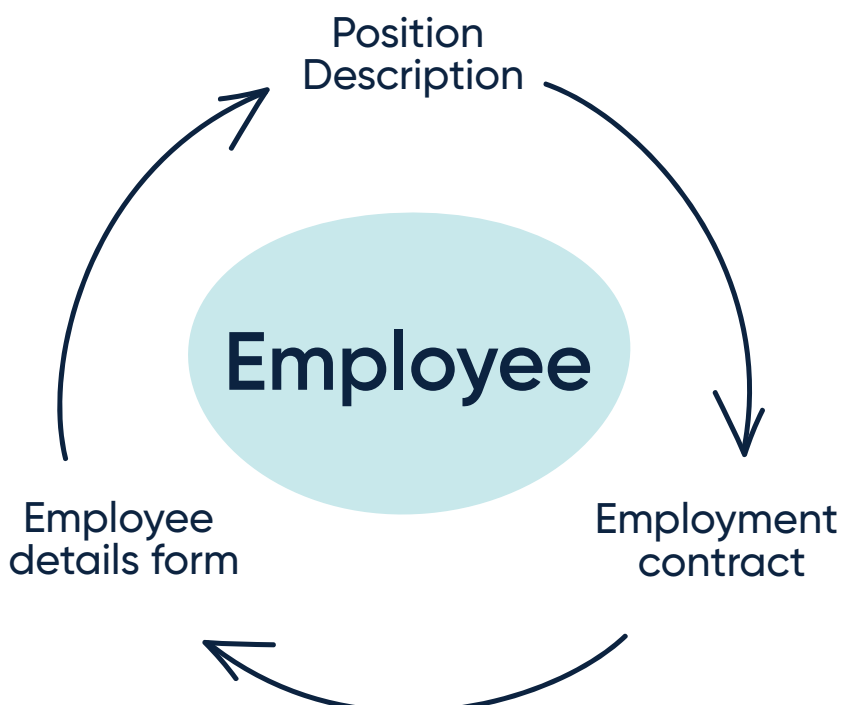
With changes in the industry over the past 25 years, we can't do all the work on our farms without help.

Farms that have been successful in growing their business often have the right people for the right jobs. This doesn't happen by luck. Having a clear understanding of the role and type of person you want gives employers a better chance of finding and keeping the right people.

There are some good resources available to help make the recruiting and engagement process comprehensive but still pretty straightforward.

For an employment relationship to work, both employer and employee must share the same expectations about the job. To make sure you are both 'on the same page', there are three documents you can't get by without:

- A position description
- An employment contract
- An employee details form.



Resource in this section

- FAQ – What is an apprenticeship or traineeship?
- Position description:
 - Example
 - Template
- Employment contracts – casual and permanent:
 - Example (permanent)
 - Template
- Employee details form:
 - Example
- Checklist for recruiting a Production Manager



Learn more

Visit the ESKi at:

thepeopleindairy.org.au/eski

Start with a position (job) description

A position description (or job description) is a statement that explains a job. Writing a position description will help clarify the skills and traits you need the new employee to have. It should include:

- job title and location
- whether the position is full-time, part-time or casual
- duties, responsibilities and tasks – what you need the person to do, who they are in charge of and who they report to
- any required skills, qualifications, licences and experience
- any other requirements – such as physical demands
- your expectations – such as production targets
- any benefits, such as accommodation.

Don't include anything that isn't necessary for the job such as gender, age or family responsibilities. Not only will you be limiting the people who will apply for the job, but it could be discrimination and break the law.

Think carefully about what you really want. Do you just need a hand with the milking (casual milker) or do you want to delegate some responsibility to a farm manager and have some work life balance – a holiday?

Sometimes employees are hard to find. Can you train up an existing employer or take on an apprentice or trainee – refer to the **FAQ – What is an apprenticeship or traineeship?** Would backpackers suit your short-term staffing needs?

You should also start thinking about your obligations and asking yourself the following questions: what are the minimum wages? What other conditions may they be entitled to? What hours do you want them to work?

Advertising

Think about where the person you want is likely to look – which isn't necessarily where you would look, e.g. noticeboards at schools and employment websites.

You should have a budget for all the costs of your advertising. Prices vary from newspaper to newspaper, and website to website.

Places to consider advertising are:

- Australian Job Network agencies (no fees)
- private employment companies that service the dairy industry
- noticeboards at local shops, schools and TAFE colleges, backpacker hostels, agricultural suppliers, sporting clubs
- your local newspaper and the regional rural paper
- dairy company publications
- job or industry websites (see text box below).

How you advertise the job will also affect who applies for it. Job ads should be based on the position description and include:

- a brief description of your farm
- the job title and status
- a brief description of duties
- any required skills, qualifications or experience
- your contact information
- how to apply for the job and a closing date for applications.

Online job sites

Here are a few of the sites and services available to get you started:

Local Facebook pages and groups where employers advertise jobs and prospective employees look for opportunities. Twitter is also active.

Websites such as **Dairy Farm Jobs Board**, **Gumtree**, **Harvest Trail**, **Careerjet**, **Seek**, **Help Harvest NSW**, **Ag Careers**, **Swaggie**, **Backpacker Jobs Australia** and **AgDraft**

Recruitment companies such as **Dairy Jobs**, **CFM Dairy Recruitment**, **Agricultural Appointments**, **Westvic Staffing Solutions** and **AgriTalent** (fees apply), and **Workforce Australia for businesses**.

Visit thepeopleindairy.org.au/eski/employing-someone to access these sites.



Under the Fair Work Act 2009, discrimination is disadvantaging a person in the workplace because of individual characteristics.



The Pastoral Award 2020 specifically requires you to give employees a written statement setting out their classification, applicable pay and terms of engagement.

Assessing applications

First of all, you can short list applicants by comparing their skills, qualifications and experience with the job description. Then, to assess the short listed applications:

Do

- Arrange an interview to get to know them and find out a little bit more about their experience and why they want the job.
- A skills assessment if it's relevant to the job.
- Talk to their referees, making sure you ask specific questions about their skills and experience.

Don't

- Ask job applicants to work an unpaid trial. You can ask them to demonstrate a particular skill but if you ask them to do productive work, you'll need to pay them the minimum casual hourly rate for the job.
- Ask personal questions that aren't related to whether or not they can do the job, such as their race, colour, gender, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities pregnancy, religion, political opinion, national extraction or social origin. This can be offensive and discriminatory. This applies to their references as well – only ask questions that are relevant to the job they'll be doing. Exceptions apply where the discrimination is taken because of the nature of a particular position.
- Farm work can be physically demanding. It is okay to require a pre-employment medical examination.

Write an employment contract

The Pastoral Award 2020 specifically requires employers to give full-time employees a written statement setting out their classification, applicable pay and terms of engagement.

Refer to the [Payroll section](#) for classifications and pay rates.

Part-time employees and the employer must agree in writing on the regular pattern of work specifying the hours to be worked each day, the days of the week when the employee will work and the daily starting and finishing times.

Casual employees must be told that they are employed as a casual employee, the identity of the employer, classification level and pay rate. All employees including casual employees should be provided with a written employment contract.

You can look after these obligations with an **employment contract**.

Standard employment contract

The employment contract must not contain any terms or conditions for work which are inconsistent with or less favourable to the employee than the Pastoral Award 2020 and the National Employment Standards. If it does these terms and conditions will not be enforceable.

The **Contract template** can be used to create an employment contract.

Employee details form

By law, all employment records must contain the following:

- the name of the employer
- the name of the employee
- whether employment is full time or part time
- whether employment is permanent, casual or temporary
- the date the employment began
- the ABN of the employer.

These records can be kept on the **employee details form**.

Employing someone checklist

- Do all your employees have a detailed written **Position Description** setting out their duties, responsibilities and tasks?
- Do your employees have a written statement setting out their classification, applicable pay and terms of engagement? (**employment contract**).
- Do you have all your employee details recorded on an **Employee Details Form**?
- Do you provide new employees with appropriate induction training, information and support? Use the **Induction Section checklist**.



Learn more

Visit the ESKi at:
thepeopleindairy.org.au/eski



What is an apprenticeship or traineeship?

Frequently asked questions

Apprenticeships and traineeships are formal training arrangements between an employer and an employee. They combine work with study for a qualification, certificate or diploma.

They can be full-time, part-time or school-based. Anyone who's old enough to work can do one. There are wide variations of arrangements, particularly around pay, support and time off. Interestingly, a degree of success of a training arrangement depends on employers' HR practices and communication skills.

The training has to be registered and recognised by your state or territory training authority. They decide which qualifications are apprenticeships and which are traineeships.

Why consider hiring an apprentice or trainee?

Hiring an apprentice or trainee can be a cost-effective way to build skills in your business while supporting someone starting a new career.

Young workers can bring enthusiasm and new skills to a workplace and can become loyal and valuable employees.

You could also be eligible for financial incentives.

What am I responsible for?

Best practice employers understand their obligations to young workers and recognise that their guidance and support can shape young employees' futures and their attitudes to work.

As an employer you are also responsible for:

- meeting legal requirements (such as employment conditions and occupational health and safety);
- providing appropriate supervision and support for the apprentice or trainee;
- lodging the required training documentation.

Starting an apprenticeship or traineeship

Before someone can start an apprenticeship or traineeship, the employer and employee need to register with the state or territory training authority. This is called 'signing up'.

Step 1: Contact an Australian Apprenticeships Centre

To find the nearest one, go to australianapprenticeships.gov.au or call 13 38 73.

These centres advise on apprenticeships and traineeships and can help choose the right training.

They can give you information about the paperwork you need to fill in and the supervision, facilities and support you'll need to give your apprentice or trainee.

They also look after Australian Government incentive payments.

Step 2: Contact a Registered Training Organisation

Apprentices and trainees need to be enrolled for training through a Registered Training Organisation (RTO). RTOs are often called 'trade schools' and give nationally recognised training. They can also assess apprentice and trainees' skills, and help work out a training plan.

Step 3: Fill in the paperwork

The Australian Apprenticeships Centre will help you fill in and lodge all the paperwork, including the training contract.

Can new employees be paid as trainees while they're learning on-the-job or during their probation period?

They can only be paid as a trainee if they are doing a registered traineeship that is recognised in the state or territory where they are working. They cannot be paid as a trainee just because they are new, learning on the job or on probation.

How long does an apprenticeship usually take?

Apprenticeships usually take 3 to 4 years full-time.

Can an existing employee start an apprenticeship or traineeship with their current employer?

Yes, provided there is no pay reduction. You will still need to register the apprenticeship or traineeship with your state or territory training authority.

What pay rate does an employee get after they finish their apprenticeship or traineeship?

They are entitled to the rate for their classification in their modern award. This is based on their age, qualifications and skills. The Pastoral Award 2020 incorporates the National training wage - see clause 25.

Are apprentices and trainees entitled to paid sick leave and annual leave?

They are entitled to personal (sick) leave and annual leave under the National Employment Standards and the Pastoral Award 2020 the same as other employees.

Some school-based trainees get an extra loading instead of paid annual leave, personal leave and public holidays.

Do apprentices and trainees get penalty rates and overtime?

They are entitled to the same conditions as other employees, including penalty rates, overtime rates, allowances and breaks.

Do apprentices and trainees get paid while they are at training?

Full and part time trainees must be paid for any time spent doing training. School-based trainees don't get paid for training - they get an hourly rate for all hours they work on the job.

Whilst there are guidelines for payment, the reality is that farmers and employees usually negotiate this and make arrangements that suit their circumstances.

Who pays for the training?

State and territory training authorities decide who pays for training. Some modern awards require the employer to cover the cost of training.

Often the employer will pay for all or part of the training, even if they don't have to. Sometimes the government covers the training costs. For more information **contact your state or territory training authority.**

Visit [fairwork.gov.au/how-we-will-help/helping-the-community/campaigns/apprentice-campaigns/national-apprentice-campaign](https://www.fairwork.gov.au/how-we-will-help/helping-the-community/campaigns/apprentice-campaigns/national-apprentice-campaign)

Registered Training Organisations (RTOS)

These organisations deliver accredited courses in Agriculture from Certificate II, through to Advanced Diploma and pathways to degree levels.

Certificate II in Agriculture is offered to Year 10, 11 and 12 students as a Vocational Education and Training in Schools program or an Australian School Based Apprenticeship.

These progressive qualifications provide training from the early skills of a farm hand right through to dairy business management.

At all stages the students are involved in dedicated vocational training - with classroom participation for developing knowledge and on-farm practical experience.

At the Diploma and Advanced Diploma levels, projects are undertaken on the individual's home farm, or in a managed work placement to ensure relevance and extra value for their study experience.

Developing the skills, knowledge and technical competence of people on farm is central to a farm's success.



Position description templates

Suggested steps for preparing and using a position description template

If at any time you need more information or assistance, call your dairy adviser or visit thepeopleindairy.org.au

Step 1 Conduct a job analysis

Before you recruit, you need to understand the position you are trying to fill and the type of person required to fill it.

A job analysis is the process through which you work out the tasks you want performed and the skills, knowledge and abilities required to perform them.

You need to think carefully about what you really want. Do you just want a hand with the milking (casual milker) or do you want to delegate some responsibility to a farm manager and have some work life balance – a holiday.

Step 2 Outline the type of role or job to done

In considering the nature of the work involved, you should think about:

Which parts of the farm system will the employee be working in? For example, milk harvesting, animal husbandry and heifer rearing, feed management and delivery, pasture production and cropping, repairs, maintenance and development, administration and risk management? What are the specific jobs to be done in each of these areas?

Is the type of position you are trying to recruit for at the level of:

- Assistant Farm Hand
- Farm Hand
- Senior Farm Hand
- Production Manager
- Senior Production Manager; or
- Business Manager

Position description

A detailed Position Description is an essential start to recruiting a new employee. This will help you find the right person for the job and explain what you expect from your new employee. Writing a position description will help clarify the skills and traits you need the new employee to have. You should include:

- Job title and location
- Duties, responsibilities and tasks – what you need the person to do, who they oversee and to who they report
- Any required skills, qualifications and licenses
- Any other requirements, such as physical demands

Read more about each role in Stepping Stones which aims to help both new and current employees identify and progress along pathways which will benefit the individual and the dairy industry as a whole: thepeopleindairy.org.au/planning-for-the-future/stepping-stones/

Step 3 Create a position description

A position description should include:

- the job title;
- a summary of the role and how it fits into the business;
- details of the tasks to be undertaken for the role;
- the reporting structures and working relationships that apply;
- levels of performance required; and
- may include time lines for various projects or undertakings

Written position descriptions are important because they set guidelines and expectations and are often used as the basis of performance appraisals.

Once you have outlined the employee's duties it is important to check that you have described a 'realistic' job. Review the list of duties and estimate the time required to do each task. Is the overall job a realistic one? Consult with other staff and family members to ensure that you have identified the job well.

Step 4 Create a person specification

The person specification takes the position description and answers the question, 'What human traits and experience are required to do this job well?' The person specification may be a separate section of the position description or a separate document entirely; often (as with the templates provided) it is presented on the back of the position description.

Areas to describe may include some or all of the following:

- skills – e.g. stock handling, tractor driving;
- abilities – e.g. good people manager;
- knowledge – e.g. feed budgeting;
- degree of initiative – e.g. can work unsupervised and deal with unforeseen problems;
- education and qualifications – e.g. chemical user's certificate, Certificate II in Agriculture;
- work experience – e.g. has managed staff in a large herd system; and
- personality traits and temperament – e.g. gets on well with others, good 'team player'.

The person specification should have 'essential' and 'desirable' components. The most important traits or experience are usually considered essential and the less important are desirable.

Position description

1 Organisational relationships

Reports to: _____

Supervises: _____

2 Position summary

3 Major responsibilities

4 Duties

Milk harvesting

Animal husbandry

Feed management and delivery

Pasture production and cropping

Plant equipment and infrastructure maintenance

Administration

5 Skills and experience (person specification)

Skills and knowledge

Training and qualification

Work experience

6 Personal Competency

Acceptance of direction

- Acceptance of direction and code of behaviour within the business. Accuracy and eye for detail
- Demonstration of a concern for accuracy.
- Attention to all requirements of a task and implementation of checking and follow-up.

Punctuality

- Ability to be punctual on a regular basis and appropriate communication in the event of being delayed.

Prioritising skills

- Identification of the important operational requirements of the farming enterprise. Implementation of priority tasks within the resource capabilities available.

Confidence

- A quality of self-reliance and boldness.
- A confidence and belief in own ideas and opinions and a willingness to express and act upon them.

Empathy

- The ability to perceive and understand the feelings of others.

Flexibility to cope with change

- Demonstration of the ability to instigate, support and cope with change.

Handling pressure and stress

- The ability to continue to perform well under pressure or in stressful circumstances.

Initiative

- An ability to take action when enterprise is required.
- Actively seeks out opportunities to make extra contributions to benefit the business.

Interpersonal skills

- The ability to interact appropriately and successfully with people of all different types and at different levels.

Listening skills

- The ability to give close attention to someone, follow instruction and involve in discussion.

Teamwork

- The ability to work with other people towards a common goal.
- To establish effective collaborative relationships with other people in the business.

Work ethic

- The commitment to work within the boundaries of what is a reasonable industry expectation.

Communication

- Ability to communicate clearly and effectively via phone, sms, interpersonally or by email, present ideas and to document activities; to source, read and interpret written information.
- To keep all stakeholders up to date.

POSITION DESCRIPTION

<insert employee name>

<insert position title>

1 ORGANISATIONAL RELATIONSHIPS

Reports to: < insert the name of the person the incumbent is directly responsible to>

Supervises: <insert the name(s) of the person(s) the incumbent is directly responsible for>

2 POSITION SUMMARY

<insert overall statement about the position, how it fits into the farm system and working conditions>

3 MAJOR RESPONSIBILITIES

<insert a list of the main areas of responsibility the employee has within this position>

-
-
-

4 DUTIES

<insert the actual tasks the employee completes as part of the role>

Milk Harvesting

-
-

Animal Husbandry

-
-

Feed Management and Delivery

-
-

Pasture Production and Cropping

-
-

Plant Equipment and Infrastructure Maintenance

-
-

Administration

-
-

5 SKILLS AND EXPERIENCE (person specification)

<insert the personal attributes needed to perform the role>

Skills and knowledge

-
-

Training and qualifications

-
-

Work experience

-
-

6 PERSONAL COMPETENCY

Acceptance of direction

- Acceptance of direction and code of behaviour within the business.

Accuracy and eye for detail

- Demonstration of a concern for accuracy.
- Attention to all requirements of a task and implementation of checking and follow-up.

Punctuality

- Ability to be punctual on a regular basis and appropriate communication in the event of being delayed

Prioritising skills

- Identification of the important operational requirements of the farming enterprise. Implementation of priority tasks within the resource capabilities available.

Confidence

- A quality of self-reliance and boldness.
- A confidence and belief in own ideas and opinions and a willingness to express and act upon them.

Empathy

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Listening skills

- The ability to give close attention to someone, follow instruction and involve in discussion.

Teamwork

- The ability to work with other people towards a common goal.

- To establish effective collaborative relationships with other people in the business.

Work ethic

- The commitment to work within the boundaries of what is a reasonable industry expectation.

Communication

- Ability to communicate clearly and effectively via phone, sms, interpersonally or by email, present ideas and to document activities; to source, read and interpret written information.
- To keep all stakeholders up to date.

Farm/Company name

Position Description

INSERT DAIRY
BUSINESS ICON

Position Title: Senior Farmhand

Work Location: *Address, Site*

Reports to: *Title of Manager (not person's name)*

Direct reports: *Title(s) of position(s) reporting to this role (not person's name)*

Full-time

Part-time

Fixed term

Casual

Position Summary:

- *insert overall statement about the position, how it fits into the farm system and working conditions*

This position commences at the 'Ensure and Advise' level of the Dairy Capability Guide. Key responsibilities outlined below correspond with the Apply level and the 9 key farming capabilities identified in the Dairy Capability Guide. (Please remove key responsibilities that are not relevant to your farm business or the Senior farmhand position on your farm). See below for further information on the Dairy Capability Guide.

Overview - Key Responsibilities

Milking, Health and Nutrition

- Coordinate milking operations, supervising the milking team to ensure safe and effective milking by all team members
- Minimise mastitis risk and maintaining milk quality for safe food production.
- Report areas for improvement in milking processes to improve milk quality and dairy cattle well-being.
- Identify and select animals for breeding using reproduction readiness data such as heat collar detection.
- Artificially inseminate and pregnancy test dairy cattle cows as per best practice guidelines.
- Supervise natural mating processes for dairy cattle welfare.
- Ensure that calving cows receive the required attention for safe and effective birthing.
- Observe dairy cattle for fertility management and take action as per standard operating procedures. operating procedures
- Monitor others handling of dairy cattle on-farm, ensuring SOPs are followed and animal well-being is maintained, holding team members accountable to appropriate ethical and safe behaviours.
- Identify and draft livestock. Ensure team are accurately implementing health and nutrition plans.
- Assess the herd regularly for health concerns and report as required.

Feed-base management

- Plan and communicate paddock rotations and pasture plans, and ensure that team members are directing cattle to the correct feed location.
- Support creation of fodder crop production plans, and communicate the plan to appropriate team members. Ensure implementation of the plan is completed in a safe and effective manner.
- Maintain and monitor stored external commodities stockfeed levels and take action to replenish as needed.
- Monitor team implementation of nutrition plans, supporting team members to safely and effectively maintain dairy cattle nutrition for wellbeing.
- Collect nutrition and health data for dairy cattle and make recommendations for nutrition plans.

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Soils, Water management, and Irrigation

- Ensure soil sampling processes are completed by appropriate personnel in a safe and accurate manner and the integrity of the sample is maintained.
- Plan for when, where and how moisture data is to be collected. Collect and provide soil moisture data, following processes that are valid and reliable, and supported by technology.
- Monitor for accurate soil moisture data collection and troubleshoot as needed.
- Ensure irrigation systems are safely and effectively implemented by the farm team, as per the standard operating procedures, farm policies and aligned with the irrigation plan.
- Take action to improve the irrigation system when faults are observed or reported
- Evaluate the implementation of the irrigation plan and make recommendations on areas for improvement.
- Implement plant nutrition programs, with work task allocation across team members.
- Make recommendations for adaption of plant nutrition programs based on soil properties and soil moisture levels.

Vehicles, Machinery and Farm Maintenance

- Model expected behaviours in the safe and effective use of ride on vehicles.
- Monitor for safe and accurate use of all ride on vehicles by all members of the team. Hold people accountable to safe and accurate driving of vehicles on-farm.
- Report hazards and assess risk related to ride on vehicles and propose solutions to minimise the risks.
- Model expected behaviours in the safe and effective use of feed storage devices and machinery.
- Monitor for safe and accurate use of all feeding machinery by all members of the team.
- Monitor for safe and effective use of feed storage devices, as per manufacture recommendations, and standard operating procedures and farm policies. Hold people accountable to safe and accurate use of feed storage devices and machinery.
- Report hazards and assess risk related to feeding machinery and propose solutions to minimise the risks.
- Model expected behaviours in the safe and effective use of fodder crop harvest machinery.
- Monitor for safe and accurate use of fodder crop harvest machinery by all members of the team.
- Monitor for safe and effective use of fodder crop harvest machinery, as per manufacture recommendations and standard operating procedures. Hold people accountable to safe and accurate use of fodder crop harvest machinery.
- Report hazards and assess risk related to fodder crop harvest machinery and propose solutions to minimise the risks.
- Model expected behaviours in the safe and effective milking plant maintenance procedures.
- Monitor for safe and effective milk plant maintenance by all members of the team, as per and standard operating procedures. Hold people accountable to safe and accurate milk plant maintenance.
- Report hazards and assess risk related to fodder crop harvest machinery and propose solutions to minimise the risks.
- Supervise the safe and effective preparation, application, storage and transportation of agrichemicals.
- Report any hazards and near misses in the use of agrichemicals, making recommendations for risk assessment processes and mitigation in standard operating procedures.
- Maintain accurate recording of the use of agrichemicals as required.
- Implement and monitor quality assurance on fencing to enhance dairy cattle wellbeing and safety.
- Coordinate the team to complete safely and effectively implement property improvement, construction and repair.
- Implement pest monitoring and management plans.

Leadership

- Embraces a leadership role for teams on-farm.
- Hold self and others accountable for their actions and behaviours, meeting expectations of the workplace.
- Role models taking responsibility for what gets done, how it is done, and the outcomes of the actions taken.
- Supports team members to self-reflect and identify strengths, areas for improvement.
- Communicates expectations clearly to team members and ensures clarity in leading others.
- Provides feedback on whether expectations of performance and behaviours are being met by team members.
- Seeks out and gives constructive feedback for successful change in practice on-farm, providing a stable environment for the team in times of uncertainty.
- Prioritises the wellbeing of self and others, to ensure that all team members are physically and emotionally safe in the work they do.
- Reports opportunities for different possibilities and scenarios to minimise risk in operations and support business resilience.
- Makes clear and transparent decisions that guide team members for success.

Job description template – last update Jan 2024

- Knowledge of differing personality types and application of the principles for working to each team members strengths, bringing the diverse team members together for success.
- Promptly addresses conflict with appropriate conflict resolution processes. Recognises and acknowledges others for their achievements and successes.
- Role models active listening
- Creates, communicates and self- evaluates specific, measurable goals for developing self as a person and a leader on-farm.
- Engages, supports, and empowers team members to set goals for themselves that help them achieve their future directions, with trust and no prejudice.
- Encourages team members to speak positively of dairy in interactions both on-farm and in the broader community. Role models positive communication and advocacy.
- Understands the work environment and contributes to the development of work plans and team goals.
- Demonstrates an awareness of the implications of issues that may impact on own work objectives.
- Ensures team supporting strategic direction
- Implements innovative ideas with team members, encouraging open-minded approaches to new ideas on-farm.
- Makes recommendations on new opportunities for farming practice innovation.
- Evaluates the implementation of new ideas and reports the successes and barriers.
- Knowledge on the principles of feedback, with ability to identify areas for improvement across a team and provide direction to team members based on feedback.
- Coaching of team members to support capability development for transformation of practice

Job description template – last update Jan 2024

Competencies

The Dairy Capability Guide provides a framework that describes the range of expected skills, behaviours and capabilities required of people working on successful dairy farms. A summary of expected competencies related to this position are summarized below.

Full details of competency requirements relating to this role can be found at [INSERT TPID link](#)

Competency Area	Level 1 - Follow	Level 2 - Apply	Level 3 - Ensure & Advise	Level 4 – Initiate & Influence	Level 5 – Set strategy, inspire and mobilise
Dairy Farming Practice	<i>refers to basic capability to complete tasks under supervision. The person is not expected to use much initiative, but should be organised in how they complete the task.</i>	<i>refers to capability of consistently completing specified work tasks independently, requiring only periodic reviews of performance of the task(s). Problems are escalated under their own discretion, with insight into when a task is deviating from standard procedure.</i>	<i>refers to capability where supervisory roles occur. The capabilities are often applied in challenging and unpredictable work, and recommendations for new directions are given when problems arise.</i>	<i>refers to when capabilities are applied with an authority for an area of work. The work area is often highly complex. These capabilities allow the person to influence policies and procedures of the business, playing a significant role in the business directions, including working closely with key suppliers and purchasers at a high level. Leads technical and business change upon direction of the business leadership.</i>	<i>refers to capabilities where decisions critical to the organisation are made. Sets business objectives, governing directions of employees, and working with key suppliers and purchasers at the top level. Leads on strategy with full range of management and leadership skills to achieve the key outcomes of the business. The capabilities allow for authority that includes setting policy and procedures.</i>
Farm Business Performance					
Sustainability and Environment					
People Management					
Digital Technologies					
Professionalism					
Communication					
Leadership					
Critical Thinking for Decisive Action					

Education, Skills, Experience:

This section is used to describe what indicative knowledge, skills and abilities are required to perform the daily tasks and job duties bulleted above. If this position is part of a group of levels, be sure to show the increase in the knowledge, skills and abilities necessary to perform the daily tasks and job duties.

- Diploma or Certificate in Agriculture or a related field.
- Several years of hands-on experience in dairy farming, progressing from lower-level positions.
- Completion of courses in animal husbandry, farm management, Chemical Users Certificate, Farm safety, and other related areas.

Employee Name:

Employee signature:

Date:



Full time/Permanent employment contract template

Updated February 2024

Step 1 Have all the paperwork ready that you'll need

Before you can complete the contract template, you must read the example contract and accompanying notes. The contract makes reference to both the Pastoral Award and the National Employment Standards, so you might like to have those handy. You'll need the Position Description to make sure the contract matches the job.

Step 2 Complete the contract by filling in the detail where indicated in red

This contract caters for both **full-time and part time** employees – fill in the detail, where indicated in red. There is a separate contract for **casual workers** (the next document in your ESKI folder) available at: thepeopleindairy.org.au/engagement-reward/contracts-and-agreements.htm

Step 3 Attach the position description

A position description should include:

- the job title;
- a summary of the role and how it fits into the business;
- details of the tasks to be undertaken for the role;
- the reporting structures and working relationships that apply;
- levels of performance required

Step 4 Detail other benefits

Clause 19 allows you to detail other benefits, such as accommodation.

Step 5 Meet with the new employee and provide employment contract

Meeting face to face with your new employee to provide the contract and talk about the contents is a good opportunity for:

- you to explain the terms and conditions of employment
- the employee to ask questions, and
- you to describe your expectations for the job.

Key messages

The Pastoral Award 2020 specifically requires employers to give full-time employees a written statement setting out their classification, applicable pay and terms of engagement.

- **Part-time employees** and the employer must agree in writing on the regular pattern of work specifying the hours to be worked each day, the days of the week when the employee will work and the daily starting and finishing times.
- **Casual employees** must be told that they are employed as a casual employee, the identity of the employer, classification level and pay rate. Employers are not required under the Pastoral Award 2020 to provide a written statement to casual employees but this is advisable.

The employment contract must not contain any terms or conditions for work which are inconsistent with or less favourable to the employee than the Pastoral Award 2020 and the National Employment Standards. If it does these terms and conditions will not be enforceable.

Step 6 Give your new employee time to consider the employment contract

You should give the person enough time to consider the contents of employment contract and seek their own advice (if they want it) before they accept the offer. When providing the contract you should give a date by when you'd like the person to let you know whether the offer is accepted. Also, it is good practice to give the employee your contact details in case they have more questions.

Step 7 Keep a copy of the signed contract and provide the employee with a copy

Once you have received the signed contract from the employee, return a copy to them. This ensures you both have a record of what has been agreed.

<insert business name>

EMPLOYMENT CONTRACT

(For Permanent Award Employees of National System Employers)

This is an employment contract

BETWEEN <insert company name/partnership/other name > **the Employer**

AND

<insert employee's full name> **the Employee**

1 Commencement Date

This employment contract commences on the <insert commencement date>.

2 Probation (See Note 1)

- 2.1 Employment is subject to the satisfactory completion of a three-month probation period.
- 2.2 The purpose of the probation period is to enable the employer and the employee to assess their suitability and capability to work together.
- 2.3 During the probation period the employer or the employee has the right to terminate the employment with one week's notice for any reason and without any repercussions.

3 Award

The Pastoral Award 2020 and the federal industrial laws govern this employment contract.

4 Employment Category (See Note 2)

- 4.1 The employee is employed as a full-time permanent/part-time *[delete where not applicable]* <insert position title> to undertake the duties as outlined in the attached position description, and such further or other duties reasonably required by the employer in respect of which the employee has the skills to perform and which may include working for an affiliate or related entity of the employer. *[attach position description.]*
- 4.2 By signing this employment contract, the employee agrees that s/he has disclosed to the employer all information including medical and workers' compensation information that could reasonably be held to be relevant to his/her ability to perform the role and duties as described in this clause and the attached Position Description safely and competently.

5 Employment Classification (See Note 4)

The employee is classified as a *<insert classification>*.

6 Ordinary hours of work (See Note 3)

[full-time employees]

The ordinary hours of work are *<insert ordinary hours of work>*.

OR

[part time employees]

The days of work and the daily starting and finishing times will be presented on fortnightly rosters and will be rostered within the following regime:

<insert expected days and hours of work and starting and finishing times>

Work performed in accordance with the fortnightly rosters and subsequent submission of a completed timesheet will be taken to indicate agreement pursuant to clause 10.3 of the Pastoral Award 2020.

7 Overtime/Additional hours (See Note 3)

7.1 The employee will be expected to work reasonable additional hours.

7.2 This contract anticipates that the employee will work *<insert number of overtime/additional hours anticipated to be worked >*

8 Remuneration (See Note 4)

8.1 The rate of pay is *<insert pay rate>* per hour/per week *[delete where not applicable]*.

8.2 The rate of pay for overtime is *<insert pay rate>*.

8.3. The employer will pay the employee weekly/fortnightly *[delete where not applicable]* into a bank account/by cheque/in cash *[delete where not applicable]*.

9 Annual Leave (See Note 5)

[full-time employees]

9.1 The employee is entitled to four weeks paid annual leave for each completed year of service with the employer. Annual leave accrues throughout the year and from year to year.

OR

[part-time employees]

The employee is entitled to annual leave of four weeks per year calculated on a pro-rata basis according to the number of hours worked each week. Annual leave accrues throughout the year and from year to year.

9.2 The employee is entitled to an annual leave loading of 17.5% for all annual leave taken or paid out upon termination of employment.

10 Personal/Carer's leave and Compassionate Leave (See Note 6)

"Immediate family" is defined as follows:

- a) A spouse, child, parent, grandparent, grandchild or sibling of the employee;
- b) A child, parent grandparent, grandchild or sibling of a spouse of the employee.

[full-time employees]

- 10.1 The employee is entitled to 10 days' paid personal/carer's leave per year for personal injury or illness. Personal/carer's leave accrues throughout the year and from year to year.

OR

[part-time employees]

The employee is entitled to paid personal/carer's leave of 10 days per year calculated on a pro-rata basis according to the number of hours worked each week. Personal/carer's leave accrues throughout the year and from year to year.

- 10.2 The employee can use their personal/carer's leave as paid carer's leave for the purpose of caring for a member of the employee's immediate family or household who requires care or support because of personal injury, illness or an unexpected emergency.
- 10.3 The employee is entitled to two days unpaid personal/carer's leave per occasion for the purpose of caring for a member of their immediate family or household who requires care or support because of personal injury, illness or an unexpected emergency.
- 10.4 The employee is entitled to two days' paid compassionate leave per occasion for the purpose of attending the funeral of a member of the employee's immediate family or a member of the employee's household or for spending time with a member of the employee's immediate family or a member of the employee's household who has a personal injury or illness which poses a serious threat to his or her life.
- 10.5 The employer may require medical evidence or a statutory declaration for any period of personal/carer's leave or compassionate leave.

11 Public Holidays (See Note 7)

[full time employees]

- 11.1 In accordance with the National Employment Standards, the employee is entitled to a day's paid leave for public holidays which fall on days when the employee would ordinarily work.

OR

[part time employees]

In accordance with the National Employment Standards, the employee is entitled to be paid for the hours they would ordinarily work on public holidays which fall on days when the employee would ordinarily work.

- 11.2 If the employee works on a public holiday he/she is entitled to be paid at double time.

12 Community Service Leave (See Note 8)

The employee is entitled to 10 days' paid jury service leave or unpaid leave to attend a voluntary emergency management activity as provided for in the NES. The employee must provide evidence of the need for the leave if required to do so by the employer.

13 Long Service Leave (See Note 9)

The employee is entitled to long service leave as provided for in the National Employment Standards or state legislation.

14 Parental Leave (See Note 10)

The employee is entitled to Parental Leave in the form of Maternity, Paternity or Adoption Leave as provided for in the National Employment Standards.

15 Flexible Working Arrangements (See Note 11)

The employee is entitled to make a written request for flexible working arrangements once the employee has completed 12 months continuous service.

16 Family and Domestic Violence leave (See Note 12)

The employee is entitled to leave to deal with family and domestic violence in accordance with the National Employment Standards.

17 Superannuation

The employer will make superannuation contributions to a fund nominated by the employee. The superannuation contribution will be not less than that required under the *Superannuation Guarantee (Administration) Act*.

18 Termination (See Notes 13 & 14)

- 18.1 The following minimum notice periods apply to termination of employment:

	Employee's period of continuous service with the employer at the end of the day the notice is given	Period
1	Not more than 1 year	1 week
2	More than 1 year but not more than 3 years	2 weeks

	Employee's period of continuous service with the employer at the end of the day the notice is given	Period
3	More than 3 years but not more than 5 years	3 weeks
4	More than 5 years	4 weeks

- 18.2 If the employee is over 45 years of age and has worked at least two years of continuous service with the employer the period of notice will be increased by one week.
- 18.3 Payment in lieu of notice will be made if the appropriate notice period is not required to be worked.
- 18.4 The employee is required to give the employer the same amount of notice as a minimum. This does not include the extra week based on age of the employee. If the employee does not give the employer notice and the employee is over 18 years of age, the employer can deduct up to one week's pay from the employee's termination payments.
- 18.5 If the employee has been given notice of termination he/she is entitled to up to one day off without loss of pay to look for work.
- 18.6 The period of notice to be given by the employer will not apply in the case of dismissal for serious misconduct that justifies instant dismissal, including conduct which causes imminent and serious risk to the health or safety of a person or the reputation, viability or profitability of the employer's business; attendance at work under the influence of alcohol or drugs; sexual harassment, theft, fraud, assault in the course of employment or refusal to carry out a lawful and reasonable instruction.

19 Other Benefits

[Other benefits e.g. accommodation can be listed here.] (See Note 15)

SIGNED

.....**THE EMPLOYER**

.....**THE EMPLOYEE**

DATED

.....

NOTES TO THE FEDERAL EMPLOYMENT CONTRACT FOR PERMANENT EMPLOYEES

GENERAL – INTERPRETATION

National system employer

This template is for national system employers employing permanent full time or part time employees who are covered by the Pastoral Award 2020. There is a separate template for non award managers.

All employers in the private sector in New South Wales, Victoria, Tasmania, South Australia, Queensland, the Australian Capital Territory and the Northern Territory are called national system employers.

Businesses in Western Australia run by a company, including trusts with a company trustee, which employ workers as part of their business, are called national system employers.

Employers in Western Australia who run their business as a sole trader, partnership or trust which does not have a company trustee are called non national system employers. They should use the template for Western Australia which applies to managers as well as non managerial employees.

NOTE (1) PROBATION PERIODS

All new employees should be placed on a period of probation to enable both the employee and the employer to determine whether the employee is capable of doing the job and is suitable for the enterprise. Probation periods must be determined before work begins and cannot be extended. The length of the probation period must be reasonable in the circumstances and three months is generally accepted to be reasonable. If employers feel they need a longer period this must be justifiable based upon the special requirements of the job and the responsibilities which the employee will be required to undertake.

The federal industrial laws provide that employees of small businesses engaged for less than 12 months and employees of other businesses engaged for less than 6 months cannot bring an action for unfair dismissal.

NOTE (2) EMPLOYMENT CATEGORY

Full-time employees

Full-time employees are engaged on a permanent basis and the following entitlements usually apply: paid annual leave and personal leave (sick leave, carer's leave, compassionate leave/bereavement leave); parental leave and notice of termination. In addition, the Pastoral Award 2020 specifies payment for public holidays.

Part-time employees

Part-time employees are engaged for fixed hours every week and receive the same entitlements as full-time employees but on a pro-rata basis calculated on the proportion of the full-time rate.

The Pastoral Award 2020 provides that part-time employees must be engaged for a minimum of three consecutive hours, or 2 hours for full time secondary school students who are 18 years of age, or under, on any shift.

NOTE (3) HOURS OF WORK

Hours of work may be governed by an award or legislation. Most employees on dairy farms will be covered by the Pastoral Award 2020 (see below).

Managers

Some managers may be excluded from awards and therefore the federal industrial laws will govern their employment entitlements.

Employers who wish to engage a manager should check that the duties they are performing and their responsibilities are significantly greater than the duties contained in the FLH7 and FLH8 classifications in the Pastoral Award 2020. If the duties match these descriptions then the manager should be engaged as an award employee.

If employers want to put in place hours of work which are more flexible than the award then they should enter into a formal enterprise agreement or an Individual Flexibility Agreement under the award.

Pastoral Award 2020

Ordinary hours

The term 'ordinary hours' means hours of work where overtime is not payable.

Under this award ordinary hours are 152 hours worked over a four-week period. Ordinary hours for casuals are the same as for full-time employees.

Ordinary hours for part-time employees covered by the Pastoral Award 2020 are any hours less than 38 and must be agreed in writing specifying the hours and days of the week that the employee will work and the actual starting and finishing times each day.

Overtime

Once the 152 hours have been worked overtime is paid at the rate of time and a half for all hours worked with double time being paid for any work done on Sundays. Feeding and watering stock on Sundays is paid at the rate of time and one half. This does not include milking.

For an explanation of how the 152 hours over 4 consecutive weeks works in practice, download the **Overtime vs Ordinary Hours fact sheet** at

<https://thepeopleindairy.org.au/employment-rewards/pastoral-award-2020/>

Overtime for part-time employees

Overtime for part-time employees applies to all hours over the agreed part-time hours.

The National Employment Standards (NES) about reasonable additional hours also applies to award employees. (See below)

Time Off Instead of Overtime (previously time off in lieu – TOIL- or ‘banked hours’)

The Award provisions about TOIL changed substantially as of the first pay period on or after 27 November 2017. For further information visit:

www.thepeopleindairy.org.au/engagement-reward/pastoral-award.htm#hours

Federal Industrial Laws – The NES

The National Employment Standards (NES) apply to all employment contracts as a minimum for all national system employers.

Reasonable Additional Hours

The NES does not use the word ‘overtime’. Under the NES, employees may be asked to work reasonable additional hours. The employment contract can only express hours of work in excess of the maximum 38 hours per week as *reasonable additional hours*.

What is reasonable for additional hours is decided by weighing up a variety of factors including risks to occupational health and safety; operational requirements of the business; personal circumstances and family commitments; whether the employee has had notice of the likelihood of the need for additional hours; and whether the employee has previously indicated a willingness or capacity to work additional hours. Generally, this will be a process of balancing the needs of the enterprise with the employee’s needs.

NOTE (4) PAY RATES

National system employers

Employers bound by the Pastoral Award 2020 should consider the pay rates contained in this award.

Classifications – Pastoral Award 2020

The Pastoral Award 2020 creates five separate classifications for dairy farm employees with different rates of pay for each classification.

The classifications reflect the different experience and skills of employees. The classifications are as follows:

- dairy operator grade 1A (farm and livestock hand level 1 - FLH1)

- dairy operator grade 1B (farm and livestock hand level 3 - FLH3)
- dairy operator grade 2 (farm and livestock hand level 5 - FLH5)
- senior dairy operator grade 1 (farm and livestock hand level 7 - FLH7)
- senior dairy operator grade 2 (farm and livestock hand level 8 - FLH8)

Pay rates

As pay rates vary, no pay rates are included in this document.

Visit the following websites for more information:

Pastoral Award 2020 http://www.fwa.gov.au/documents/modern_awards/pdf/MA000035.pdf

When determining a pay rate employers and employees should consider not only wages and salary but also other benefits which may be provided by the business for the purpose of making the position more attractive to the employee and thus assisting in staff retention. Employers could consider other benefits such as accommodation and use of vehicles, provision of meat and milk, extra superannuation, and extra leave entitlements.

Frequency of payment

The Pastoral Award 2020 specifies that award employees must be paid weekly or fortnightly.

For more information on working out a remuneration package, including information on Fringe Benefits Tax, visit www.thepeopleindairy.org.au

NOTE (5) ANNUAL LEAVE

The National Employment Standards (NES) apply to all employment contracts as a minimum and the template employment contract contains the NES terms.

The Pastoral Award 2020 contains the NES about annual leave. The Pastoral Award 2020 applies to all national system employers in the dairy industry for all employees in the classifications set out in the award. (See note 4)

Whilst the NES is a minimum, employers may wish to consider offering extra annual leave as part of a package.

The NES & the Pastoral Award 2020

The National Employment Standards (NES) for annual leave is four weeks per year which accrues progressively throughout the year and from year to year.

Annual leave must be paid at a rate which is no less than the base rate of pay for ordinary hours the employee is paid at the time of taking the leave.

Cashing out of annual leave

Annual leave can only be cashed out by award employees if it is a term of an award or enterprise agreement.

As of 29 July 2016 employers and employees covered by the Pastoral Award 2020, can agree in writing to cash out annual leave. The maximum amount of annual leave that can be cashed out in any 12-month period is 2 weeks and employees must keep a minimum of 4 weeks' accrued leave. The Award provides a template written agreement in a Schedule at the end of the award. This agreement must be kept with the employee's employment records.

For a template agreement to cash out annual leave, visit

www.thepeopleindairy.org.au/engagement-reward/national-employment-standards.htm#annual

The Pastoral Award 2020 – Annual Leave Loading

The award also requires payment of a 17.5% annual leave loading for all annual leave. Annual leave loading must also be paid when annual leave is paid out on termination.

NOTE (6) PERSONAL/CARER'S LEAVE AND COMPASSIONATE LEAVE

The National Employment Standards (NES) apply to all employment contracts as a minimum and the template enterprise agreement contains the NES terms.

The Pastoral Award 2020 contains the NES about personal/carer's leave. The Pastoral Award 2020 applies to all national system employers in the dairy industry for all employees in the classifications set out in the award. (See note 4)

Whilst the NES is a minimum, employers may wish to consider offering extra personal/carer's leave as part of a package.

The NES & The Pastoral Award 2020

Personal/ Carer's Leave and Compassionate Leave

Under the NES, employees (other than casual employees) are entitled to 10 days paid personal/ carer's leave for each year of service.

Personal/carer's leave accrues on a pro rata basis throughout the year and from year to year and there is no cap on how much of this leave can be used for carer's leave. Personal/carer's leave and compassionate leave accrue on the basis of the employee's ordinary hours of work.

Personal leave can be taken if the employee is not fit for work due to personal illness or injury.

Payment for personal/carer's leave is at the employee's base rate of pay for ordinary hours of work.

Carer's leave

Carer's leave can be taken to provide care or support for a member of the employee's household or immediate family due to personal illness or injury or an unexpected emergency.

Immediate family is defined to mean:

- a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
- a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.

Immediate family includes extended and blended families, de facto partners, step-relationships, adoptive relationships and same sex relationships)

All employees, including casual employees are entitled to 2 days of unpaid carer's leave per occasion. Permanent employees can only take unpaid carer's leave if they have used up all of their paid leave entitlement.

Compassionate leave

Employees are also entitled to 2 days of paid compassionate leave per occasion and casual employees are entitled to 2 days unpaid compassionate leave.

Compassionate leave can be taken on 2 consecutive days, 2 separate days or any other period as agreed between the employer and the employee.

Compassionate leave is available for employees to spend time with a member of their immediate family or household who has developed personal illness or injury or after the death of a member of their immediate family or household.

Payment for compassionate leave is at the employee's base rate of pay for ordinary hours of work.

Notice and evidence requirements

When taking personal/carer's leave and compassionate leave, employees must do the following or they are not entitled to take the leave:

- notify their employer as soon as is reasonably practicable (which can be a time after the leave has started);
- state the period, or expected period, of the absence
- if required by the employer—provide evidence that would satisfy a reasonable person of their entitlement to take the leave. (this can be a medical certificate or statutory declaration)

Cashing out of personal/carer's leave

Personal/carer's leave can only be cashed out if it is a term of an award or enterprise agreement.

The Pastoral Award 2020 does not provide for cashing out of personal/carer's leave. Therefore, employees can only cash out accrued personal/carer's leave if it is a term of a formal enterprise agreement.

NOTE (7) PUBLIC HOLIDAYS
The NES & the Pastoral Award 2020

The NES provides for employees to be absent from work on specified public holidays.

Payment is the employee's base rate of pay for ordinary hours of work.

Full-time employees are entitled to a paid day off for public holidays if they would normally work on that day.

Part-time employees are entitled to be paid for the hours they would normally work on public holidays. If they do not normally work on the day of the public holiday they are not entitled to public holiday pay.

The following days are public holidays for the NES:

- 1 January (New Year's Day)
- 26 January (Australia Day)
- Good Friday
- Easter Monday
- 25 April (Anzac Day)
- Queen's birthday holiday
- 25 December (Christmas Day)
- 26 December (Boxing Day)

If a State or Territory substitutes another day or declares an additional day, the employee is entitled to be absent on that day. If a day is substituted then this day becomes the public holiday for the purpose of working out entitlements and not the other day.

Substitution of other days

The Pastoral Award 2020 allows for employers and individual employees or employers and the majority of employees to agree to substitute an alternative day for the public holiday.

Enterprise Agreements can also provide for substitution of public holidays.

Requests to work on public holidays

An employer may request an employee to work on a public holiday if the request is reasonable.

The request may be refused if it is unreasonable or the employee's refusal is reasonable. The NES provides list of factors to be taken into account when determining the reasonableness of a request or refusal.

Payment for working on public holidays

Payment for working on a public holiday is an award entitlement which does not apply to non award employees such as managers.

The Pastoral Award 2020

Work done on public holidays by farm and livestock hands is paid at the rate of double time.

NOTE (8) COMMUNITY SERVICE LEAVE

The NES provides an entitlement to leave for all employees required to attend jury service and for those who engage in a voluntary emergency management activity.

Jury service leave

Employees are entitled to be paid by their employer for a period of up to 10 days while they are absent from work during a period of jury service.

Payment for jury service leave is the employee's base rate of pay for ordinary hours of work.

Employers can require the employee to obtain payments for jury service leave from the applicable State/Territory or Commonwealth body and these payments will reduce the amount payable to the employee.

Notice requirements – jury service leave

Employers can request evidence that the employee has taken steps to obtain any available payments and evidence of the payments from the State/Territory or Commonwealth body for the first 10 days of the jury service leave. If this is not provided the employer does not have to make the payment for jury service leave.

Voluntary emergency management activities

Employees are entitled to unpaid leave to engage in voluntary activities which involve dealing with a natural disaster or emergency if they are voluntary members of the emergency management body and the body has requested them to attend. Emergency management bodies include fire fighting bodies, civil defence and rescue.

Notice requirements – community service leave

Employees must give employers notice of the need for community service leave as soon as possible and advise the employer of the expected length of the absence. Employers can also require employees to give them reasonable evidence of the need for the leave.

NOTE (9) LONG SERVICE LEAVE

State and territory laws provide for Long Service Leave.

For further information, visit www.thepeopleindairy.org.au

NOTE (10) PARENTAL LEAVE

The federal parental leave laws contained in the NES apply to all employers.

Parental leave involves unpaid maternity leave, paternity leave and adoption leave.

Parents cannot take parental leave at the same time except for a period of up to eight weeks in total. This period of concurrent leave may be taken in separate periods but unless the employer agrees, each period must not be shorter than 2 weeks.

The concurrent leave must not start before the date of birth of the child or the day of placement of the child if the leave is adoption leave unless the employer agrees.

The entitlement exists once an employee has worked for the employer for 12 months. It also applies to certain long-term casual employees.

The laws about parental leave are complex and there are specific requirements for notification. Employers should seek legal advice or advice from their local state farming organisation if an employee becomes eligible for parental leave. For further information visit www.thepeopleindairy.org.au

NOTE (11) REQUESTS FOR FLEXIBLE WORKING ARRANGEMENTS

The laws about requests for flexible working arrangements changed on 6 June 2023.

Section 65 of the Fair Work Act 2009 provides for Requests for Flexible Working Arrangements as part of the NES.

Requests for flexible working arrangements

Requests may be made in the following circumstances:

- the employee is pregnant;
- If the employee is a parent, or has the responsibility for the care, of a child who is of school age or younger:
 - The employee is a carer (within the meaning of the Carer Recognition Act 2012);
 - The employee has a disability;
 - The employee is 55 or older;
 - The employee is experiencing family and domestic violence;

- The employee provides care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because the member is experiencing violence from the member's family.

In addition, parents or those who have responsibility for the care of a child and who are returning from a period of parental leave or adoption leave may request to work part-time to assist the employee to care for the child.

Permanent employees can make a request for flexible working arrangements if they have completed 12 months' continuous service with the employer.

Casual employees who have worked for the employer on a regular and systematic basis during a period of at least 12 months and who have a reasonable expectation of continuing work can also make a request for flexible working arrangements.

The request must be in writing and provide details of the change sought and reasons for the change.

The employer and the employee must discuss the request and genuinely try to reach an agreement which will accommodate the employee's circumstances having regard to the following:

- the needs of the employee arising from their circumstances;
- the consequences for the employee if changes in working arrangements are not made; and
- any reasonable business grounds for refusing the request.

Employers must respond to the request in writing within 21 days and give reasons if the request is refused. A request may only be refused on *reasonable business grounds* which should be specified in the written response.

If the request is refused employees must also be provided with details of the reasons for the refusal and details of how the reasonable business grounds apply to them.

In addition, the written response must state whether or not there are any changes in working arrangements that the employer can offer to the employee to better accommodate the employee's circumstances and if so these changes must be set out in the response.

If the employer and the employee reach an agreement on a change in working arrangements that differs from that initially requested by the employee, the employer must provide the employee with a written response to their request setting out the agreed change(s) in working arrangements.

What are reasonable business grounds?

Fair Work Act provides the following list of matters which may amount to reasonable business grounds, but there may be others:

- That the new working arrangements would be too costly for the employer;
- That there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested by the employee;
- That it would be impractical to change the working arrangements of other employees or recruit new employees to accommodate the new working arrangements requested by the employee;
- That the new working arrangements requested by the employee would be likely to result in a significant loss in efficiency or productivity;
- That the new working arrangements requested by the employee would be likely to have a significant negative impact on customer service.

The letter must also inform the employee that they can access the Fair Work Commission dispute resolution jurisdiction if they do not agree with the decision.

NOTE (12) FAMILY AND DOMESTIC VIOLENCE LEAVE

Family and Domestic Violence Leave is an entitlement which is a part of the NES.

New laws apply as of 1 February 2023 for medium and large businesses and 1 August 2023 for small businesses.

Family and domestic violence means:

Violent, threatening or other abusive behaviour by a close relative of an employee, a member of an employee's household, or a current or former intimate partner of an employee that seeks to coerce or control the employee and that causes them harm or to be fearful.

Close relative means the following:

- a member of the employee's *immediate family*; or
- is related to the employee according to Aboriginal or Torres Strait islander kinship rules.

immediate family means

- *a spouse, de facto partner, child, parent, grandparent, grandchild, sibling of employee;*
- *a spouse, de facto partner, child, parent, grandparent, grandchild, sibling of employee's spouse or de facto partner;*

Family and Domestic Violence Leave is a National Employment Standards entitlement of 10 days' paid leave per 12-month period for domestic violence victims to deal with family and domestic violence.

Changes to this entitlement come into effect as of 1 February 2023 for businesses with 15 or more employees and from 1 August 2023 for small businesses with less than 15 employees. Employees of small businesses remained entitled to 5 days' unpaid Family and Domestic Violence Leave until 1 August 2023.

Family and Domestic Violence Leave applies in full to all employees including part time and casual employees. The start of a casual or seasonal employee's employment is the start of that employee's first employment with the employer.

Family and Domestic Violence Leave does not accrue progressively or accumulate from year to year but is available in full at the commencement of each 12-month period of the employee's employment.

Family and domestic violence victims do not have to have exhausted other forms of leave before accessing Family and Domestic Violence Leave.

Taking family and domestic violence leave

The employee may take family and domestic violence leave if:

- the employee is experiencing family and domestic violence;
- the employee needs to do something to deal with the impact of the family and domestic violence; and
- it is impractical for the employee to do that thing outside the employee's ordinary hours of work.

The employee can take the family and domestic violence leave

- in a single continuous period; or
- in separate periods of one or more days; or
- in any other separate periods agreed between the employer and the employee which may amount to more than the NES provides.

Notice and evidence requirements:

- Notice must be given to the employer as soon as practicable which can be after the leave has started.
- The employee must advise employer of the expected period of the leave.
- If required by the employer, the employee must provide evidence that would satisfy a reasonable person that the leave is

- taken because the employee is experiencing family and domestic violence;
- the employee needs to do something to deal with the impact of the family and domestic violence; and
- it is impractical for the employee to do that thing outside the employee's ordinary hours of work.

types of evidence

Types of evidence can include:

- documents issued by the police service;
- documents issued by a court;
- family violence support service documents, or
- a statutory declaration.

Confidentiality requirement

Employers must ensure that any information provided by the employee with respect to Family and Domestic Violence Leave is treated confidentially.

This confidentiality requirement does not prevent the employer from making a disclosure if required to do so by Australian law or to protect the life, health or safety of the employee or another person.

Payslips

Family and Domestic Violence Leave should not be recorded on pay slips but employers should keep the usual records relating to leave records in the employee's employment records.

For further information about family and domestic violence leave go to the National Employment Standards page on The People in Dairy website.

NOTE (13) TERMINATION

It is very important to manage employee separation carefully whether the employee is leaving because of resignation, redundancy or dismissal. First, it minimises the risk of legal problems and secondly, it protects the reputation of both your business and you as an employer.

Employers should use fair procedures when terminating employees as replacing employees is expensive and claims for unfair or unlawful dismissal can be costly and time consuming to defend.

Termination of employment can lead to court action. Employers who are considering dismissing an employee should always obtain legal advice before doing so.

Further information can be found at www.thepeopleindairy.org.au

NOTE (14) NOTICE PERIODS

The National Employment Standards (NES) apply to all employment contracts as a minimum and the template enterprise agreement contains the NES terms.

The Pastoral Award 2020 contains the NES about notice of termination plus further terms about employee notice and the job search entitlement. The Pastoral Award 2020 applies to all national system employers in the dairy industry for all employees in the classifications set out in the award.

The NES & the Pastoral Award 2020

Notice Periods

'Continuous service' is the time an employee has spent working for an employer without a break and this needs to be calculated so that the notice period can be worked out.

Unauthorised absences from work do not break continuous service but are not counted when calculating how long the notice period should be.

Exclusions from notice requirement

The following employees do not have to be given notice:

- employees employed for a specified period of time, for a specified task, or seasonal employees;
- employees whose employment is terminated because of serious misconduct;
- casual employees;
- trainees (other than apprentices) and whose employment is for a specified period of time or is, for any reason, limited to the duration of the training arrangement.

Termination without notice

The Pastoral Award 2020 and the NES allow for termination without notice in cases of serious and wilful misconduct. The template contains a clause providing for termination without notice in these circumstances.

NOTE 14.1 EMPLOYEE NOTICE

Non award employees can only be required to give notice if it is a term of an award or enterprise agreement.

Pastoral Award 2020

Under the Pastoral Award 2020 employees must also give the same amount of notice as employers. However, employees do not have to give the additional week of notice based on the age of the employee and length of service.

Employers must give written notice but employees may give verbal notice.

If the employee fails to give notice and is over 18 years of age, the employer can deduct up to one week's pay from the employee's termination payments.

NOTE 14.2 JOB SEARCH ENTITLEMENT

Job search entitlement is an award entitlement.

Pastoral Award 2020

Under the Pastoral Award 2020 where an employer has given an employee notice of termination, the employee is entitled to take one day off without loss of pay to look for other work. The employee can take the day off at a time when it is convenient to the employee after consultation with the employer.

NOTE (15) ACCOMMODATION

For information about accommodation go to <https://thepeopleindairy.org.au/employment-rewards/accommodation/> for template agreements and information about whether state residential tenancy laws apply.



Casual employment contract template

Updated October 2023

Step 1 Have all the paperwork ready that you'll need

Before you can complete the contract template, you must read the example contract and accompanying notes. The contract makes reference to both the Pastoral Award 2020 and the National Employment Standards, so you might like to have those handy. You will need the Position Description to make sure the contract matches the job. This contract caters for **casual employees** - fill in the detail, as indicated. There is a **separate contract** for **full and part time workers** at thepeopleindairy.org.au/engagement-reward/contracts-and-agreements.htm

Step 2 Attach the position description

A position description should include:

- the job title;
- a summary of the role and how it fits into the business;
- details of the tasks to be undertaken for the role;
- the reporting structures and working relationships that apply;
- levels of performance required.

Step 3 Detail other benefits

The template provides a section for you to detail other benefits, such as accommodation.

Step 4 Meet with the new employee and provide employment contract

Meeting face to face with your new employee to provide the contract and talk about the contents is a good opportunity for:

- you to explain the terms and conditions of employment
- the employee to ask questions, and
- you to describe your expectations for the job.

Key messages

Casual employees must be told that they are employed as a casual employee, the identity of the employer, their classification level and pay rate. The contract of employment must not contain any terms or conditions for work which are inconsistent with or less favorable to the employee than the Pastoral Award 2020 and the National Employment Standards. If it does, these terms and conditions will not be enforceable.

Step 5 Give your new employee time to consider the employment contract

You should give the person enough time to consider the contents of employment contract and seek their own advice (if they want it) before they accept the offer. When providing the contract, you should give a date by when you would like the person to let you know whether the offer is accepted. Also, it is good practice to give the employee your contact details in case they have more questions.

Step 6 Keep a copy of the signed contract and provide the employee with a copy

Once you have received the signed contract from the employee, return a copy to them. This ensures you both have a record of what has been agreed.

EMPLOYMENT CONTRACT

(For casual employees of National System Employers) (Note 1)

This is an employment contract

BETWEEN _____ **the Employer**

AND

_____ **the Employee**

1 Commencement Date

This employment contract commences on the _____.

2 Award

The Pastoral Award 2020 and the federal industrial laws govern this employment contract.

3 Employment Category (Note 2)

3.1 The employee is employed as a casual _____ to undertake the duties as outlined in the attached position description and such further or other duties reasonably required by the employer in respect of which the employee has the skills to perform and which may include working for an affiliate or related entity of the employer. *[Position description attached.]*

3.2 By signing this employment contract, the employee agrees that s/he has disclosed to the employer all information including medical and workers' compensation information that could reasonably be held to be relevant to his/her ability to perform the role and duties as described in this clause and the attached Position Description safely and competently.

4 Employment Classification (Note 4)

The employee is classified as a _____.

5 Hours of Work (Note 3)

5.1 The employer makes no firm advance commitment to continuing and indefinite work according to an agreed pattern of work.

5.2 The employer will offer work as required by the employer and the employee is entitled to accept or reject work which is offered.

6 Remuneration (Note 4)

6.1 The rate of pay is _____ per hour/per week *[delete where not applicable]*.

- 6.2 The rate of pay in clause 6.1 includes a casual loading of 25% which compensates the employee for annual leave, personal carer's leave, notice of termination, redundancy benefits and other attributes of full-time or part-time employment.
- 6.3 The rate of pay for overtime will be time and a half for all hours over 152 hours in a consecutive period of 4 weeks and double time for Sunday when not feeding and watering stock.
- 6.4. The employer will pay the employee weekly/fortnightly *[delete where not applicable]* into a bank account/by cheque/in cash *[delete where not applicable]*.

7 Annual Leave (Note 5)

The employee is not entitled to annual leave as the casual loading compensates him/her for annual leave.

8 Personal/Carer's leave and Compassionate Leave (Note 6)

"Immediate family" is defined as follows:

- a) A spouse, child, parent, grandparent, grandchild or sibling of the employee;
 - b) A child, parent grandparent, grandchild or sibling of a spouse of the employee.
- 8.1 The employee is entitled to two days unpaid personal/carer's leave per occasion for the purpose of caring for a member of their immediate family or household who requires care or support because of personal injury, illness or an unexpected emergency.
- 8.2 The employee is entitled to two days unpaid compassionate leave per occasion for the purpose of attending the funeral of a member of the employee's immediate family or a member of the employee's household or for spending time with a member of the employee's immediate family or a member of the employee's household who has a personal injury or illness which poses a serious threat to his or her life.
- 8.3 The employer may require medical evidence or a statutory declaration for any period of personal/carer's leave or compassionate leave.
- ## 9 Public Holidays (Note 7)
- 9.1 In accordance with the National Employment Standards, the employee is entitled to paid leave for the hours they would ordinarily work on public holidays which fall on days when the employee is rostered to work.
- 9.2 If the employee works on a public holiday he/she is entitled to be paid at double time.

10 Community Service Leave (Note 8)

10.1 The employee is entitled to unpaid community service leave to attend jury service or a voluntary emergency management activity as provided for in the NES.

10.2 The employee must provide evidence of the need for the leave if required to do so by the employer.

11 Long Service Leave (Note 9)

The employee is entitled to long service leave as provided for in the National Employment Standards or state legislation.

12 Parental Leave (Note 10)

The employee is entitled to Parental Leave in the form of Maternity, Paternity or Adoption Leave as provided for in the National Employment Standards.

13 Flexible Working Arrangements (Note 11)

The employee is entitled to make a written request for flexible working arrangements once the employee has completed 12 months continuous service.

14 Family and Domestic Violence leave (Note 12)

The employee is entitled to family and domestic violence leave in accordance with the National Employment Standards.

15 Superannuation

The employer will make superannuation contributions to a fund nominated by the employee. The superannuation contribution will be not less than that required under the *Superannuation Guarantee (Administration) Act*.

16 Conversion to Permanent Employment (Note 13)

The employee may request to convert from casual to permanent employment in certain circumstances as provided for in the National Employment Standards.

If the employer is not a small business employer, the employer will offer casual conversion in accordance with the National Employment Standards.

17 Other Benefits

[Other benefits e.g. accommodation can be listed here.] (See Note 14)

SIGNED

..... **THE EMPLOYER**

..... **THE EMPLOYEE**

DATED

.....

ATTACH

**Casual Employment Information Statement
Fair Work Information Statement**

NOTES TO THE FEDERAL EMPLOYMENT CONTRACT FOR CASUAL EMPLOYEES

Omit these notes when providing the contract to the employee

GENERAL – INTERPRETATION –

NOTE (1)

National system employer

This template is for national system employers employing casual employees.

All employers in the private sector in New South Wales, Victoria, Tasmania, South Australia, Queensland, the Australian Capital Territory and the Northern Territory are called national system employers.

Businesses in Western Australia run by a company, including trusts with a company trustee, which employ workers as part of their business, are also called national system employers.

Employers in Western Australia who run their business as a sole trader, partnership or trust which does not have a company trustee are called non national system employers. They should use the template for Western Australia.

NOTE (2) EMPLOYMENT CATEGORY

Casual employees

The laws about casual employees were clarified in 2021.

Casual employees are now defined in the Fair Work Act 2009 as employees who accept an offer of employment which has been made on the basis that the employer makes no firm advance commitment to continuing and indefinite work according to an agreed pattern of hours. Casual employees are entitled to accept or reject work that is offered by the employer. A typical casual employee is employed on a daily basis when the need arises. Casual employees are paid a loading to compensate them for lack of entitlements such as annual leave, personal leave and the lack of continuity of work.

The Pastoral Award 2020 has a casual loading of 25% (See Note 3 below).

Employees who work similar hours each week which are known in advance should be hired as part-time employees and paid the various entitlements calculated on a pro-rata basis.

Unfair termination laws have for some time recognised the concept of regular casual employees.

Employers should be aware that the federal industrial laws allow all casual employees engaged on a regular and systematic basis with a reasonable expectation of continuing employment to bring an action for unfair dismissal. They are also entitled to parental leave.

Notice periods do not usually apply to casual employees and this continues under the federal industrial laws which exempt employers of both short-term casuals and casuals engaged on a regular and systematic basis from the requirement to give notice.

NOTE (3) HOURS OF WORK

Hours of work may be governed by an award or legislation. Most employees on dairy farms will be covered by the Pastoral Award 2020. However, note that managers are excluded from awards and therefore the federal industrial laws will govern their employment entitlements.

If employers want to put in place hours of work which are more flexible than the award then they should enter into a formal enterprise agreement or an Individual Flexibility Agreement under the award.

The term 'ordinary hours' means hours of work where overtime is not payable.

This contract incorporates changes to the laws about casual employees which came into effect in 2021.

Clauses 5.1 and 5.2 in the contract reflect the change in the law and **are essential** to ensure that the casual employee is regarded by the law as a casual employee. In making the offer of employment, the employer must make no firm advance commitment to ongoing and indefinite work according to an agreed pattern of work and the employee must be entitled to accept or reject work which is offered. You should NOT specify actual hours of work in the contract.

Employers should note that working a regular pattern of hours subsequent to acceptance of the offer of employment does not in itself prevent the employee from being classified as a casual employee but this may entitle the employee to seek to convert their employment from casual to permanent employment after 12 months' employment. See below **Note 13**.

Pastoral Award 2020

Ordinary hours

Under this award ordinary hours (see definition of ordinary hours above) are 152 hours worked over a four-week period. Ordinary hours for casual employees are the same as for full-time employees.

Minimum engagement

The Pastoral Award 2020 provides that casual employees are entitled to be paid for a minimum of 3 hours' work, or 2 hours for full time secondary school students who are 18 years of age or under.

Overtime

Once the 152 hours have been worked overtime is paid at the rate of time and a half for all hours worked with double time being paid for any work done on Sundays. Feeding and watering stock on Sundays is paid at the rate of time and one half. This does not include milking.

The National Employment Standards (NES) about reasonable additional hours also applies to award employees. (See below)

Time Off Instead of Overtime (previously time off in lieu – TOIL- or 'banked hours')

The Award provisions about TOIL changed substantially as of the first pay period on or after 27 November 2017. For more information, visit:

<https://thepeopleindairy.org.au/employment-rewards/pastoral-award-2020/>

Federal Industrial Laws – The NES

The National Employment Standards (NES) apply to all employment contracts as a minimum for all national system employers.

Some of the entitlements in the NES do not apply to casual employees as the casual loading compensates them for these entitlements.

They are as follows:

- Annual leave
- Some aspects of personal/carer's leave;
- Payment for attending jury service
- Notice of termination and redundancy benefits

Ordinary hours

Under the NES, ordinary hours of work for full-time non-award employees are 38 hours per week but these hours can be averaged over a 26-week period by written agreement between the employer and the employee. This only applies to non award employees such as managers. **See above for hours of work for award employees.**

Overtime

The NES does not use the word 'overtime'. Under the NES, employees may be asked to work reasonable additional hours. The employment contract can only express hours of work in excess of the maximum 38 hours per week as *reasonable additional hours*.

What is reasonable for additional hours is decided by weighing up a variety of factors including risks to occupational health and safety; operational requirements of the business; personal circumstances and family commitments; whether the employee has had notice of the likelihood of the need for additional hours; and whether the employee has previously indicated a willingness or capacity to work additional hours. Generally this will be a process of balancing the needs of the enterprise with the employee's needs.

The NES does not specify any extra payment for overtime for non award employees such as managers.

NOTE (4) PAY RATES AND CLASSIFICATIONS

National system employers

The National Minimum Wage applies to all common law employment contracts for all award free employees of national system employers.

If the employee is not covered by an award, for instance a manager, the national minimum wage still applies to every hour worked and the salary paid must reflect this.

Employers bound by the Pastoral Award 2020 should consider the pay rates contained in this award.

Classifications – Pastoral Award 2020

The Pastoral Award 2020 creates five separate classifications for dairy farm employees with different rates of pay for each classification.

The classifications reflect the different experience and skills of employees.

The classifications are as follows:

- Dairy operator grade 1A
- Dairy operator grade 1B
- Dairy operator grade 2
- Senior Dairy operator grade 1
- Senior Dairy operator grade 2

Pay rates

Casual employees are paid a 25% casual loading to compensate them for various entitlements detailed in clause 6.2 of the template.

Note: that the casual loading is not compounded when calculating the various penalties such as overtime and public holiday pay.

The calculation is as follows:

(penalty rate x ordinary time rate) + (25% x ordinary time rate).

For further information go to:

<https://thepeopleindairy.org.au/employment-rewards/pay-rates-2020/>

As pay rates vary no pay rates are included in this document.

Go to the following websites for more information:

Pastoral Award 2020

<https://thepeopleindairy.org.au/employment-rewards/pay-rates-2020/>

When determining a pay rate employers and employees should consider not only wages and salary but also other benefits which may be provided by the business for the purpose of making the position more attractive to the employee and thus assisting in staff retention. Employers could consider other benefits such as accommodation and use of vehicles, provision of meat and milk, extra superannuation, and extra leave entitlements.

For more information on working out a remuneration package, including information on Fringe Benefits Tax, go to the Employment and Reward section of www.thepeopleindairy.org.au.

NOTE (5) ANNUAL LEAVE

Casual employees are not entitled to annual leave under the NES as the casual loading contains a component which compensates them for not receiving this entitlement.

NOTE (6) PERSONAL/CARER'S LEAVE AND COMPASSIONATE LEAVE

Only some aspects of the NES provisions apply to casual employees.

Carer's leave

Casual employees are entitled to 2 days of unpaid carer's leave per occasion.

Compassionate leave

Casual employees are entitled to 2 days unpaid compassionate leave per occasion.

Compassionate leave can be taken on 2 consecutive days, 2 separate days or any other period as agreed between the employer and the employee.

Compassionate leave is available for employees to spend time with a member of their immediate family or household who has developed personal illness or injury or after the death of a member of their immediate family or household.

Notice and evidence requirements

When taking personal/carer's leave and compassionate leave, employees must do the following or they are not entitled to take the leave:

- notify their employer as soon as is reasonably practicable (which can be a time after the leave has started);
- state the period, or expected period, of the absence
- if required by the employer—provide evidence that would satisfy a reasonable person of their entitlement to take the leave. (this can be a medical certificate or statutory declaration)

NOTE (7) PUBLIC HOLIDAYS**The NES & the Pastoral Award 2020**

The NES provides for employees to be absent from work on specified public holidays and this applies to both award and non award employees.

Payment is the employee's base rate of pay for ordinary hours of work.

Casual employees are not entitled to pay for public holidays unless they were rostered for work on that day.

The following days are public holidays for the NES:

- 1 January (New Year's Day)
- 26 January (Australia Day)
- Good Friday
- Easter Monday
- 25 April (Anzac Day)
- Queen's birthday holiday
- 25 December (Christmas Day)
- 26 December (Boxing Day)

If a State or Territory substitutes another day or declares an additional day, the employee is entitled to be absent on that day. If a day is substituted then this day becomes the public holiday for the purpose of working out entitlements and not the other day.

Substitution of other days

The Pastoral Award 2020 allows for employers and individual employees or employers and the majority of employees to agree to substitute an alternative day for the public holiday.

Award free employees can agree with employers to substitute public holidays.

Enterprise Agreements can also provide for substitution of public holidays.

Requests to work on public holidays

An employer may request an employee to work on a public holiday if the request is reasonable.

The request may be refused if it is unreasonable or the employee's refusal is reasonable. The NES provides list of factors to be taken into account when determining the reasonableness of a request or refusal.

Payment for working on public holidays

Payment for working on a public holiday is an award entitlement which does not apply to non award employees such as managers.

The Pastoral Award 2020

Work done on public holidays by farm and livestock hands is paid at the rate of double time.

NOTE (8) COMMUNITY SERVICE LEAVE

The NES provides an entitlement to leave for all employees required to attend jury service and for those who engage in a voluntary emergency management activity.

Jury service leave

Casual employees are not entitled to be paid by their employer for attending jury service as the casual loading compensates them for this entitlement.

Voluntary emergency management activities

Employees are entitled to unpaid leave to engage in voluntary activities which involve dealing with a natural disaster or emergency if they are voluntary members of the emergency management body and the body has requested them to attend. Emergency management bodies include fire fighting bodies, civil defence and rescue.

Notice requirements – community service leave

Employees must give employers notice of the need for community service leave as soon as possible and advise the employer of the expected length of the absence. Employers can also require employees to give them reasonable evidence of the need for the leave.

NOTE (9) LONG SERVICE LEAVE

State and territory laws provide for long service leave.

For further information go to go to the Engagement and Reward section of www.thepeopleindairy.org.au

NOTE (10) PARENTAL LEAVE

The federal parental leave laws contained in the NES apply to all employers.

Parental leave involves unpaid maternity leave, paternity leave and adoption leave.

Parents cannot take parental leave at the same time except for a period of up to eight weeks in total. This period of concurrent leave may be taken in separate periods but unless the employer agrees, each period must not be shorter than 2 weeks.

The concurrent leave must not start before the date of birth of the child or the day of placement of the child if the leave is adoption leave unless the employer agrees.

The entitlement exists once an employee has worked for the employer for 12 months. It also applies to certain long-term casual employees.

The laws about parental leave are complex and there are specific requirements for notification. Employers should seek legal advice or advice from their local state farming organisation if an employee becomes eligible for parental leave. For further information go to the Engagement and Reward section of The People in Dairy website www.thepeopleindairy.org.au.

NOTE (11) REQUESTS FOR FLEXIBLE WORKING ARRANGEMENTS

The laws about requests for flexible working arrangements changed on 6 June 2023.

Section 65 of the Fair Work Act 2009 provides for Requests for Flexible Working Arrangements as part of the NES.

Requests for flexible working arrangements

Requests may be made in the following circumstances:

- the employee is pregnant;
- If the employee is a parent, or has the responsibility for the care, of a child who is of school age or younger:
- The employee is a carer (within the meaning of the Carer Recognition Act 2012);
- The employee has a disability;
- The employee is 55 or older;
- The employee is experiencing family and domestic violence;
- The employee provides care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because the member is experiencing violence from the member's family.

In addition, parents or those who have responsibility for the care of a child and who are returning from a period of parental leave or adoption leave may request to work part-time to assist the employee to care for the child.

Permanent employees can make a request for flexible working arrangements if they have completed 12 months' continuous service with the employer.

Casual employees who have worked for the employer on a regular and systematic basis during a period of at least 12 months and who have a reasonable expectation of continuing work can also make a request for flexible working arrangements.

The request must be in writing and provide details of the change sought and reasons for the change.

The employer and the employee must discuss the request and genuinely try to reach an agreement which will accommodate the employee's circumstances having regard to the following:

- the needs of the employee arising from their circumstances;
- the consequences for the employee if changes in working arrangements are not made; and
- any reasonable business grounds for refusing the request.

Employers must respond to the request in writing within 21 days and give reasons if the request is refused. A request may only be refused on *reasonable business grounds* which should be specified in the written response.

If the request is refused employees must also be provided with details of the reasons for the refusal and details of how the reasonable business grounds apply to them.

In addition, the written response must state whether or not there are any changes in working arrangements that the employer can offer to the employee to better accommodate the employee's circumstances and if so these changes must be set out in the response.

If the employer and the employee reach an agreement on a change in working arrangements that differs from that initially requested by the employee, the employer must provide the employee with a written response to their request setting out the agreed change(s) in working arrangements.

What are reasonable business grounds?

Fair Work Act provides the following list of matters which may amount to reasonable business grounds, but there may be others:

- That the new working arrangements would be too costly for the employer;
- That there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested by the employee;
- That it would be impractical to change the working arrangements of other employees or recruit new employees to accommodate the new working arrangements requested by the employee;
- That the new working arrangements requested by the employee would be likely to result in a significant loss in efficiency or productivity;
- That the new working arrangements requested by the employee would be likely to have a significant negative impact on customer service.

The letter must also inform the employee that they can access the Fair Work Commission dispute resolution jurisdiction if they do not agree with the decision.

NOTE (12) FAMILY AND DOMESTIC VIOLENCE LEAVE

Family and Domestic Violence Leave is an entitlement which is a part of the NES.

New laws apply as of 1 February 2023 for medium and large businesses and 1 August 2023 for small businesses

Family and domestic violence means:

Violent, threatening or other abusive behaviour by a close relative of an employee, a member of an employee's household, or a current or former intimate partner of an employee that seeks to coerce or control the employee and that causes them harm or to be fearful.

Close relative means the following:

- a member of the employee's *immediate family*; or
- is related to the employee according to Aboriginal or Torres Strait islander kinship rules.

immediate family means

- *a spouse, de facto partner, child, parent, grandparent, grandchild, sibling of employee;*
- *a spouse, de facto partner, child, parent, grandparent, grandchild, sibling of employee's spouse or de facto partner;*

Family and Domestic Violence Leave is a National Employment Standards entitlement of 10 days' paid leave per 12-month period for domestic violence victims to deal with family and domestic violence.

Changes to this entitlement come into effect as of 1 February 2023 for businesses with 15 or more employees and from 1 August 2023 for small businesses with less than 15 employees. Employees of small businesses remain entitled to 5 days' unpaid Family and Domestic Violence Leave until 1 August 2023.

Family and Domestic Violence Leave applies in full to all employees including part time and casual employees. The start of a casual or seasonal employee's employment is the start of that employee's first employment with the employer.

Family and Domestic Violence Leave does not accrue progressively or accumulate from year to year but is available in full at the commencement of each 12-month period of the employee's employment.

Family and domestic violence victims do not have to have exhausted other forms of leave before accessing Family and Domestic Violence Leave.

Taking family and domestic violence leave

The employee may take family and domestic violence leave if:

- the employee is experiencing family and domestic violence;
- the employee needs to do something to deal with the impact of the family and domestic violence; and
- it is impractical for the employee to do that thing outside the employee's ordinary hours of work.

The employee can take the family and domestic violence leave

- in a single continuous period; or
- in separate periods of one or more days; or
- in any other separate periods agreed between the employer and the employee which may amount to more than the NES provides.

Notice and evidence requirements:

- Notice must be given to the employer as soon as practicable which can be after the leave has started.
- The employee must advise employer of the expected period of the leave.
- If required by the employer, the employee must provide evidence that would satisfy a reasonable person that the leave is
 - taken because the employee is experiencing family and domestic violence;
 - the employee needs to do something to deal with the impact of the family and domestic violence; and
 - it is impractical for the employee to do that thing outside the employee's ordinary hours of work.

types of evidence

Types of evidence can include:

- documents issued by the police service;
- documents issued by a court;
- family violence support service documents, or
- a statutory declaration.

Confidentiality requirement

Employers must ensure that any information provided by the employee with respect to Family and Domestic Violence Leave is treated confidentially.

This confidentiality requirement does not prevent the employer from making a disclosure if required to do so by Australian law or to protect the life, health or safety of the employee or another person.

Payslips

Family and Domestic Violence Leave should not be recorded on pay slips but employers should keep the usual records relating to leave records in the employee's employment records.

For further information about Family and Domestic Violence Leave go to the National Employment Standards page on The People in Dairy website.

NOTE (13) CONVERSION FROM CASUAL TO PERMANENT EMPLOYMENT

As of 27 September 2021 the Pastoral Award 2020 has been varied to enable casual employees to seek to convert their employment to permanent employment if certain requirements are met.

In addition, employers who have more than 15 employees must also offer permanent employment to certain casual employees if they have been employed for a period of 12 months and over the past 6 months have worked a regular pattern of hours on an ongoing basis which could continue as permanent employment without significant changes.

Employers are required to provide all new casual employees with a copy of the Casual Employment Information Sheet before they start work or as soon as possible after they start work. This statement summarises the law about casual conversion.

Further information is available on The People In Dairy website.
<https://thepeopleindairy.org.au/employment-rewards/employees/>

NOTE (14) ACCOMMODATION

For information about accommodation go to <https://thepeopleindairy.org.au/employment-rewards/accommodation/> for template agreements and information about whether state residential tenancy laws apply.



Employee details form

Step 1 Arrange a time with your new employee to complete the employee details form

Give the employee a copy of the form in advance so they know what information you are going to need. Ask them to bring along their:

- Completed tax file number declaration
- Passport and visa (if applicable)
- Superannuation standard choice form
- Copies of any licences and certificates
- Copies of any qualifications and training certificates.

Step 2 Meet with your new employee to complete the employee details form

This contract caters for both **full-time and permanent** employees - fill in the detail, where indicated in red.

There is a separate contract for **casual workers** (the next document in your ESKi folder) available at: thepeopleindairy.org.au/employment-rewards/contracts-and-agreements

Step 3 Attach the position description

Meeting face to face with your new employee to complete the form and talk about the detail required is a good time to:

- explain the terms and conditions of employment, including giving them a copy of the Fair Work Information Statement and pointing out where to find the Pastoral Award 2020. This may require discussion of a hearing test (see below)
- identify any training required
- allow the employee to ask questions, and
- describe your expectations for job

Key messages

All employment records must contain the following:

- the name of the employer;
- the name of the employee;
- whether employment is full time or part time;
- whether employment is permanent, casual or temporary; and
- the date the employment began
- the ABN of the employer

These records can be kept on an employee details form.

Hearing tests (audiometric testing)

A person conducting a business (includes all employers, sole traders, principal contractors incorporated associations, partnerships, franchises and volunteer organisations that employ people) has obligations under the Work Health and Safety Regulations to manage the risks of hearing loss associated with noise at the workplace, including:

- ensuring that the noise a worker is exposed to at the workplace does not exceed the exposure standard for noise (refer to thepeopleindairy.org.au/farmsafety for more information).
- providing audiometric testing to a worker who is frequently required to use personal hearing protectors to protect the worker from hearing loss associated with noise that exceeds the exposure standard.

Audiometric testing (Occupational Health and Safety Regulations 2007, Part 3.2 – Noise, clause 3.2.11)

- This regulation applies in relation to a worker who is frequently required to use personal protective equipment to protect them from the risk of hearing loss associated with noise that exceeds the exposure standard for noise.
- The person conducting the business who provides the personal protective equipment as a control measure must provide audiometric testing for the worker within three months of the worker commencing work.

Starting the audiometric testing before people are exposed to hazardous noise (such as new starters or those changing jobs) provides a baseline as a reference for future audiometric test results.

Regular follow-up tests must be carried out at least every two years. These should be undertaken well into the work shift so that any temporary hearing loss can be picked up.

Managing the risk

To manage risk under the WHS Regulations, you must:

- identify reasonably foreseeable hazards that could give rise to the risk eliminate the risk so far as is reasonably practicable
- if you can't eliminate the risk – minimise the risk so far as is reasonably practicable by implementing control measures, i.e. provide personal protective equipment
- maintain or replace hearing protection as necessary
- review, and if necessary revise, risk control measures so as to maintain, so far as is
- reasonably practicable, a work environment that is without risks to health and safety

For further information

Call your dairy adviser or visit
thepeopleindairy.org.au/eski

Employee Details Form

<insert name of employer>

<insert ABN of employer>

Personal details

First Name: _____ Last Name: _____
 Start Date: ___/___/___ Tax File Number:
 Male / Female Date of Birth: ___/___/___
 Address: _____
 Suburb: _____ State: _____ Postcode: _____
 Home Phone: _____ Mobile: _____
 Email address: _____
 Next of Kin: _____
 Relationship: _____
 Address: _____
 Suburb: _____ State: _____ Postcode: _____
 Home Phone: _____ Mobile: _____

Position details

Position Title: _____
 Name of award or workplace agreement: _____
 Employment status: Full time / Part time / Temporary / Casual
 Hours to be worked each week: _____

Banking and superannuation details

Bank: _____ Branch: _____
 Account Name: _____
 BSB: Acct Number: _____
 Name of superannuation fund: _____
 Member number: _____
 Employer contribution: _____

Are you an Australian citizen? Y / N

If no: Are you a permanent resident? Y / N

- Do you have a Working Visa? Expiry date: ___/___/___

- Any restrictions?

Employee Details Form

Licences and certificates

Licence, certificate or qualification	Yes	No	Expiry date
Driver's licence			
Forklift licence			
Welding certificate			
First aid certificate			
Chemical user's certificate			
Other: _____			

Hearing tests

Date of test	Results

Qualifications and training

Training required

1. _____
2. _____
3. _____
4. _____

Employee Details Form

Qualification	Training organisation	Date completed

Fair Work Information Statement provided to employee _____ Y / N

Employee/ Signature: _____ Date: ____ / ____ / ____

Manager's Signature: _____ Date: ____ / ____ / ____

Employee details form:

Office Use Only

Employee Details	✓	Date	
Contract: Signed copy received			
TFN Lodged			<i>Must be within 14 days of form being signed</i>
Employment Status	<input type="radio"/> Permanent FT	<input type="radio"/> Permanent PT	<input type="radio"/> Casual
Classification of employment	FLH	Pay rate / hour	\$
Pay Period Wage	\$	Weekly/Monthly	
Payroll details entered			Zoom/MYOB/Accounts
Super form/details submitted (TFN)			
<i>Visa confirmation</i>			
<i>Passport sighted/copy</i>		<i>Number</i>	
Immediate Supervisor			
Annual pay review due			

Termination Date:	By:
Method of Termination:	<input type="radio"/> Consent <input type="radio"/> Notice <input type="radio"/> Summarily

Checklist for recruiting a production manager

Area	Element	Date
The position description	Outline the type of job to be done	
	Create a position description and person specification	
	Consider salary packaging options	
	Prepare farm background document	
	Create a job application form	
	Create job advertisement	
	Plan advertising approach	
	Place advertisements	
	Put feelers out locally	
Short listing applicants Sample acknowledgement letter	Send acknowledgement letter	
	Contact short-listed applicants to set up interviews	
Interviews Sample interview questions	Set up interview panel	
	Prepare interview questions <ul style="list-style-type: none"> • Include open-ended questions • Include behaviour questions 	
	Prepare interview guidelines <ul style="list-style-type: none"> • Interview space – free from interruptions • Make copies of candidate's application, farm background document, position description and person specification • Agree on who will ask questions and who will take notes • Allow plenty of time for questions and farm tour 	
Reference checking Questions to ask referees and a sheet for recording their comments.	Conduct interviews	
	Prepare questions and record sheet for referees	
Employment offer Use this Offer of Employment to draft one of your own. Include: a copy of the Employment Contract and Position Description	Contact referees	
	Prepare offer of employment	
	Prepare employment contract and acceptance of offer details	
Probationary period 4 checklists to use for your probationary reviews: 1 Monthly review 2 End of probationary period review 3 Code of Conduct 4 Induction checklist	Contact unsuccessful applicants	
	Prepare code of conduct	
	Plan induction procedure	
	Prepare monthly probationary period review checklist	
	Prepare end of probationary period review checklist	

Recruitment information and tools are available at thepeopleindairy.org.au/recruitment

Notes:

Payroll nuts and bolts

There are many things to think about when you're hiring staff for the first time. This list will help you get started:

- Check which classification under the Pastoral Award 2020 applies to them
- Check the minimum pay
- Decide whether the position will be full-time, part-time or casual
- Learn about breaks, maximum hours of work and overtime
- Give the employee a copy of the Fair Work Information Statement
- If the employee is a casual give them a copy of the Casual Employment Information Statement
- Record keeping
- Pay slips
- Tax
- Superannuation
- Time keeping

Pastoral Award 2020

Determine employee classification

All employees must be given a classification which accurately reflects their skills and experience and the work they do. As a minimum, wages paid to the employee should meet award rates of pay which apply to their classification.

There are five employee classifications applying to the dairy industry in the Pastoral Award, which are set out in the table overleaf. The complete Pastoral Award 2020 document is at the back of your ESKi folder, with the sections applicable to dairy 'marked up' in yellow.



Resource in this section

- FAQ – How do I tackle pay rates? factsheet
- Overtime and Ordinary Hours fact sheet (inc. example rosters)
- FAQ: Backpackers – what do I have to pay them? factsheet
- FAQ: Part time vs casual workers?
- Model Pay slip
- Choosing a super fund Standard Choice
- Timesheet
- Time and wages book example
- Roster notes and template
- Fair Work self-audit checklist for businesses
- Tax file number declaration (NAT 3092)*. Two copies of this form can be found in the inside back cover pocket of this ESKi folder.

The Pastoral Award 2020 and the National Employment Standards are bulky documents which, for your convenience, are located at the back of this ESKi folder.



Information in the **Payroll section** – specifically pay rates – will require you to update your ESKi. Look of this icon throughout your folder to indicate pages you should check and update (as required). This is just a guide but will make updating a bit easier!

Pastoral Award 2020 classification	Job category	Indicative Training level
FLH1 Farm and livestock hand level 1 Dairy operator grade 1A with less than 12 months' experience in the industry who: uses their knowledge and skills to perform set procedures such as milking and attending to livestock, haymaking, fencing.	Assistant farm hand (works under supervision) This category is for people who are involved in a general range of farming tasks and working under supervision.	Certificate II
FLH3 Farm and livestock hand level 3 Dairy operator grade 1B with 12 months' experience in the industry who: uses their knowledge and skills to perform set procedures such as milking and attending to livestock, haymaking, fencing.	Farm hand (works under limited supervision) This category is for people who are skilled or unskilled in a range of farming operations and work either independently or as part of a team.	Certificate III
FHL5 Farm and livestock hand level 5 An employee at this level includes: Dairy operator grade 2 who: has two years experience in the industry; uses their knowledge and skills to multiple operations involving basic levels of problem solving and decision making; and has an appreciation of the overall processes involved in a dairy farm.	Senior farm hand This category is for skilled people working either independently or as part of a team.	Certificate IV
FLH7 Farm and livestock hand level 7 An employee at this level includes: Senior dairy operator grade 1 who: uses their knowledge and skills to coordinate the operation of a farm process or area of expertise, e.g. milking and animal attendance, pasture and farm maintenance, breeding programs and artificial insemination area.	Production manager (implements policy and sets tactics) People in this role have significant responsibilities in managing the production activities on a dairy farm. Dairy farm production managers demonstrate broad industry knowledge and advanced technical skills.	Diploma
FLH 8 Farm and livestock hand level 8 An employee at this level includes: Senior dairy operator grade 2 who: under the direction of the owner or manager uses their expertise and skills in order to supervise and maintain the operation of a dairy farm.	Senior production manager (farm supervisor) (supervises staff and reports to management) People in roles of this category have responsibility for staff and various production activities on the farm. A supervisor is expected to carry out some business management activities like monitoring WH&S in the workplace, preparing operating budgets and supervising work routines of others. A senior production manager uses industry knowledge and may be asked to solve a range of problems.	Diploma
Award-free business manager	Business manager (sets policy) People in roles in this category have significant responsibility for ensuring the dairy enterprise is managed successfully. They are expected to demonstrate extensive industry knowledge, technical skills and business management principles in order to perform this complex role.	Advanced diploma

Employee classification	Adult Part-Time Hourly rate	Adult Full-Time Weekly rate
FLH1	\$23.46	\$891.50
FLH3	\$24.44	\$928.60
FLH5	\$25.41	\$965.60
FLH7	\$27.17	\$1,032.30
FLH8	\$29.19	\$1,109.20

Check the minimum pay

Reminder: The pay rates in the Pastoral Award 2020 apply to all national system employers across Australia, regardless of award coverage prior to 1 January 2010.

The minimum hourly rates for each employee classification are listed in the table above (you must pay these rates or above) which apply from the first pay period starting on or after 1 July 2024, of the Pastoral Award 2020.

For full time and casual employees, all time worked in excess of 152 hours over 4 weeks is overtime, and paid at time and a half, except on Sundays when the rate is double time (in the case of feeding and watering stock, Sunday work is paid at time and a half). An **overtime and ordinary hours factsheet** is included later in this section and is available at thepeopleindairy.org.au/employment-rewards/pastoral-award-2020

Note: Part time employees are entitled to overtime for all hours worked in excess of the agreed part time hours.

In WA? Pay rates depend on how you run your business.

Read more about WA state industrial laws and pay rates at: thepeopleindairy.org.au/employment-rewards/state-industrial-laws/wa-state-industrial-laws/#minimum-wage

Payment of wages

The Pastoral Award 2020 requires wages to be paid weekly or fortnightly by cash, cheque or EFT. On termination of employment, wages due to an employee must be paid on the day of termination or forwarded to the employee by post on the next working day.



Pay rates are reviewed every year and likely to change – check at thepeopleindairy.org.au/employment-rewards/pay_rates



You must keep written time and wages records for your employees for 7 years.

Record keeping – what written records do you have to keep?

Under the Fair Work Act employers have to keep written time and wages records for their employees for 7 years.

Who and when

- the employer's name and the employee's name
- your Australian Business Number
- the date the employee started work.

Type of employment, hours and rates of pay

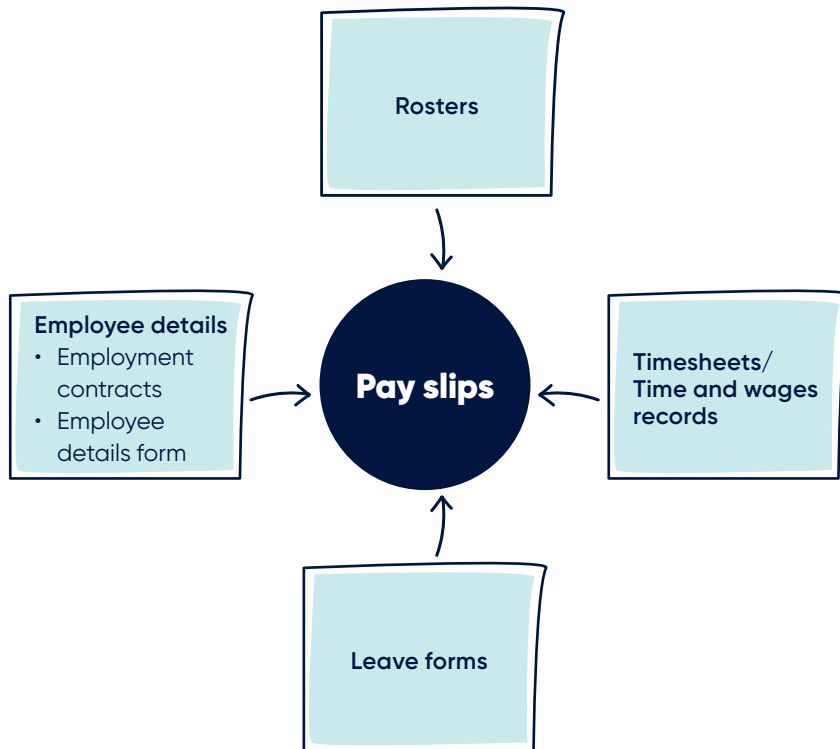
- if the employee is full-time or part-time
- whether the employee is permanent, temporary or casual
- the employee's pay rate, including gross and net amounts and any deductions from the gross amount
- loadings, allowances, bonuses, incentive-based payments, penalty rates or other paid entitlements that can be singled out
- if a penalty rate or loading must be paid for overtime hours:
- the number of hours of overtime worked, or
- when the employee started and finished working overtime.
- if the employee works casual or irregular part-time hours and has a guaranteed pay rate for a set period worked:
- number of hours worked.
- if you and your employee have agreed to an individual flexibility agreement: a copy of the agreement.

Leave (all types)

- leave taken
- leave balance.

Superannuation

- amount paid
- pay period
- date(s) paid
- name of super fund
- a record of the employee's super fund choice and the date they made that choice.



Pay slips

Employers also have to give all their employees a pay slip within one day of paying their wages. Pay slips can be issued electronically or on paper. If you keep good written time and wages records, believe it or not, producing a pay slip becomes fairly simple.

What information must be on the pay slip?

This list looks daunting. However, if you have all the source documents you need, and use our **Model Pay Slip** and/or a spreadsheet or manual sheet from your accountant, the process is fairly simple.

- Employer's name
- Employer's Australian Business Number
- Employee's name
- Date of payment
- The pay period (the period the payment is for e.g. 15/3/24–22/3/24)
- The gross pay and net pay
- Loadings, allowances, bonuses, incentive-based payments, penalty rates or other paid entitlements that can be singled out
- If the employee is paid an hourly rate:
 - the ordinary hourly rate
 - the number of hours worked at that rate
 - the amount of pay at that rate.
- If the employee is paid an annual rate (salary), the rate as at the last day in the pay period



You have to give all your employees a pay slip within 1 day of paying their wages.



Best practice tip

Talk to your accountant or bookkeeper about setting up a computerised accounts package, such as MYOB or Quickbooks.

Farmers who use electronic payroll say that the time saved in keeping employee pay and leave records out weighs the cost tenfold.

- Any deductions from the employee's pay, including:
 - amount and details of each deduction
 - name and number of the fund/account the deduction was paid into
- Any superannuation contributions paid for the employee's benefit, including:
 - the amount of contributions made during the pay period (or the amount of contributions that need to be made)
 - the name and number of the superannuation fund the contributions were made to.

What happens if I don't give my employees pay slips?

Fair Work Inspectors can give employers a fine (infringement notice) for not giving employees proper pay slips or keeping the right records. Fair Work Inspectors can also take employers to court if their failure to meet the requirements is serious, willful or repetitive.

Should leave balances be on pay slips?

While it's best practice to show employee's leave balances on their pay slip, it's not a requirement. Employers need to tell employees their leave balance if they ask for it. Leave balance for Family and Domestic Violence Leave must NOT be shown on payslips.

Deductions

Employers can only deduct money from an employee's pay in certain circumstances, i.e. the employee is over 18 and agrees in writing and the deduction is principally for their benefit.

An example **Authority to Deduct template** is available at thepeopleindairy.org.au/wp-content/uploads/2019/05/authoritytodeduct.doc

Electronic pay slips

Electronic pay slips must have the same information as paper pay slips. They need to be given to each employee by email or into a personal account. They cannot just be stored electronically.

How much tax to take out of wages

When you pay employees, you need to withhold tax from their pay and send these amounts to the Australian Taxation Office regularly via your Activity Statements.

For each new employee, you will need to:

- give them a **Tax file number declaration** (NAT 3092) to complete and return to you
- complete Section B of your employee's **Tax file number declaration**
- register for PAYG withholding (if you haven't already)
- forward the completed original of the **Tax file number declaration** to the ATO within 14 days of the employee's start date or submit your TFN Declaration electronically through your payroll software
- keep records of all hours worked, gross wages paid, tax deducted and the superannuation due to the employee.
- At the end of the financial year, employers need to advise the employee and the Australian Taxation Office of the gross wages and withholding tax.
- employers are transitioning to Single Touch Payroll – this will mean no requirement to produce physical "Group Certificates" or "Payment Summaries".

Single Touch Payroll requires an employer to maintain their payroll in an approved payroll software product, and each pay run, payroll data is lodged with the ATO.

At the end of the financial year, after reconciling payroll, the step known as "Finalisation" is required, and the payroll data is submitted. Employees will then access their "Income Statement" via their My Gov account or should they see a Tax Agent for their Taxation affairs, their payroll. Information will be flagged as "tax ready" and accessible by their Accountant.

Tax file number declaration

- Use the information provided in the *Tax file number declaration* (NAT 3092) to work out how much tax to withhold from payments made to your employee.
- The *Tax file number declaration* (NAT 3092) is made up of two parts:
 - the first part is the instructions
 - the second part is the form you need completed by your employee.
- You can obtain extra paper copies of the *Tax file number declaration* (NAT 3092), including both the instructions and form:
 - through online ordering: ato.gov.au/forms/tfn-declaration
 - by phoning **1300 720 092**
 - Take note of the name *Tax file number declaration* (NAT 3092) before ordering the product.

As noted above, it may be more efficient to have some blank copies (not necessarily the duplicated format), and submit the TFN Declaration electronically via a payroll system.

Be sure to check that the TFN Declaration being used is up to date – there is now reference to "Working Holiday Makers", which requires a further registration process by employers, if engaging working holiday makers for the first time.



You must withhold tax from employees' pay and send it to the ATO.

Tax tables for Regular payments

The Australian Taxation Office produce a range of tax tables to help you work out how much to withhold from payments you make to your employees.

A tax withheld calculator that calculates the correct amount of tax to withhold is also available on ATO website.

Weekly tax table – for employees who are paid weekly, including instructions for calculating monthly and quarterly withholding	NAT 1005
Fortnightly tax table – for employees who are paid fortnightly	NAT 1006
Monthly withholding table – for employees who are paid monthly	NAT 1007
Tax table for daily and casual workers	NAT 1024

Taxation of wages for working holiday makers – such workers are taxed at a flat rate of 15 per cent, providing their earnings are below the prescribed limit.

Note: the taxation requirements in respect to working holiday makers is under review in 2020. With all aspects of withholding tax, it is strongly recommended that you seek professional advice as to the tax obligations for such employees.

How to obtain copies of these tables

You can download a printable version of these tax tables (NAT 1005, NAT 1006, NAT 1007, NAT 1024) in Portable Document Format (PDF).

If you cannot view this PDF publication for any reason (for example, if you use screen reader software), use the Tax withheld calculator. It provides an accessible alternative for most situations.

If you don't have access to the internet, or need more information about the correct amount of tax to withhold, phone the Australian Taxation office on 13 28 66.

Tax withheld calculator

ato.gov.au/Calculators-and-tools/Tax-withheld-calculator

The **Tax withheld calculator** helps employers work out the tax you need to withhold from payments you make to employees. To use the calculator, you need the information your workers supply in their **Tax file number declaration** (NAT 3092).

Superannuation

Under the superannuation guarantee law you must pay super contributions for your eligible employees, at a minimum rate of 11.5 per cent of their ordinary time earnings for the 2024/25 payroll year, so they can enjoy the benefits of super in their retirement.

Working out if you have to pay super

Generally, you have to pay super for an employee if they're over 18 years old (inclusive). It doesn't matter whether the employee is full time, part time or casual. Employees who are under 18 years old must work at least 30 hours per week to be entitled to the super guarantee.

You also do not have to pay super guarantee for domestic or private workers who work less than 30 hours in a week.

As of 1 July 2022 the \$450.00 per calendar month threshold has been abolished and super guarantee must be paid on all earnings.

You also have to pay super for contractors if the contract is wholly or mainly for their labour, and for employees who are temporary residents of Australia.

Setting up super for a worker

You must pay contributions into a complying super fund and pass on your employee's tax file number to their super fund where you are asked to do so. Your eligible employees are entitled to choose their own super fund – you must provide them with a **Standard Choice Form** enabling them to make their choice.

How much to pay and when to pay

In 2024/25, the minimum super you must pay is 11.5 per cent of each eligible employee's 'ordinary time earnings' – basically, 11.5 per cent of the amount they earn for their ordinary hours of work (excluding overtime). You can usually claim a tax deduction for super contributions, so long as they are paid on time.

You have to make payments at least four times a year. The cut-off dates are 28 days after the end of each quarter.

Date	Change (%)
1 July 2002 – 30 June 2013	9
1 July 2013 – 30 June 2014	9.25
1 July 2014 – 30 June 2015	9.5
1 July 2015 – 30 June 2016	9.5
1 July 2016 – 30 June 2017	9.5
1 July 2017 – 30 June 2018	9.5
1 July 2018 – 30 June 2019	9.5
1 July 2019 – 30 June 2020	9.5
1 July 2020 – 30 June 2021	9.5
1 July 2021 – 30 June 2022	10
1 July 2022 – 30 June 2023	10.5
1 July 2023 – 30 June 2024	11
1 July 2024 – 30 June 2025	11.5
1 July 2025 – 30 June 2026 and onwards	12.5



By law, your eligible employees are entitled to choose their super fund – you must provide them with a Standard Choice Form enabling them to make their choice.

Single Touch Payroll (STP) is a new way of reporting tax and super information to the Australian Tax Office.

Read more at
ato.gov.au/business/single-touch-payroll

Time keeping

By law employers have to keep written time and wages records. However, keeping accurate time records is about far more than compliance with the law.

The hours a person works on average each week has a significant impact on their work-life balance.

A common reason for poor retention on some farms is having employees work unreasonable additional hours. The [Pastoral Award 2020](#) and [National Employment Standards](#) provide details on ordinary and overtime hours of work. An [overtime and ordinary hours fact sheet](#) is included later in this section.

There are a couple of simple ways of keeping track of employees' hours of work:

- Keep a time and wages book (available for around \$10 in newsagents); or
- Use our [timesheet template](#)

Rosters

A roster is a list or a plan that shows when people who work on the farm will be on duty. Rosters are typically used to schedule time off and to schedule tasks. A roster can be a formal computer-generated spreadsheet or written on a year planner, calendar, whiteboard or a **roster template**.

The success of a roster depends on the planning that goes into it and commitment by everyone to make it work. It needs to be fair for everyone and to be stuck to except in exceptional circumstances.

It is important to consider how many hours each person on the farm is requested to work (not just employees, but family members too). Sustainable rosters take into consideration timing that best suits the individuals, including breaks between shifts and start and finish times. Under the [National Employment Standards](#), certain employees (including parents with children under school age) have the right to request flexible working arrangements.

Include time for taking breaks and going on leave in the roster. Make sure that people are covered for when they are on a break or leave. Breaks are important for providing rest time as well as an opportunity for the team to get together and chat. See the [Pastoral Award 2020](#) and [National Employment Standards](#) to read about entitlements for meal breaks, rest breaks and leave.

Clause 27 of the Pastoral Award 2020 requires employers to consult with all employees when they propose to make changes to regular rosters or hours of work.

Payroll checklist

- Are you paying at least minimum wages?
- Are your employees classified correctly according to their skills and experience?
- Do you give your employees written payslips within 24 hours of them being paid?
- Do you include the following details on the employee's pay slip:
 - Employer ABN and legal and/or trading name
 - Employee name
 - Date of payment and period of payment
 - Gross and net amount of pay
- Are you keeping written time and wages records? (**Timesheets, Time and Wages Book, Employee Details Form**)
- Are you paying superannuation? (**Superannuation Standard Choice Form**)
- Are you deducting tax? (**Tax file number declaration**)
- Do casual employees receive the correct loading?
- Are part-time and casual employees engaged for a minimum of 3 hours? (Note: exemption for secondary school students)
- Do you keep time and wages records for 7 years?
- Are your rosters prepared well in advance so that all involved can plan off-farm activities?
- Do you genuinely consult with employees about changes to their regular roster and ordinary working hours?
- Do you genuinely consult with employees about changes to their regular roster and ordinary working hours?

SELF-ASSESSMENT TASK

Here's a way to test what you've learned so far.

Have a go at completing the **Fair Work self-audit checklist for businesses** (designed to help employers conduct a self-audit of their compliance with various Acts and Regulations).

To help you out we've filled in some of the boxes already.



Learn more

Visit the ESKi at:
thepeopleindairy.org.au/eski



How do I tackle pay rates?

Frequently asked questions - Updated January 2024

Employee classifications, pay rates and hours

Step 1 What is the employee's classification?

All employees should be given a classification which accurately reflects their skills and experience and the work they do. As a minimum, wages paid to the employee should meet award rates of pay which apply to their classification. The Pastoral Award 2020 applies to dairy employees. There are five employee classifications for dairy in the Award, which are summarised in the table overleaf.

Step 2 Find the minimum hourly rate – (you must pay this rate or above)

The minimum hourly rates for each employee classification are listed in the table below which apply from the first pay period on or after 1 July 2024.

Classification	Adult Full-time weekly rate (100%)	Adult Part-time hourly rate	Casual hourly (125%)
FLH1	\$891.50	\$23.46	\$29.33
FLH3	\$928.60	\$24.44	\$30.55
FLH5	\$965.60	\$25.41	\$31.76
FLH7	\$1,032.30	\$27.17	\$33.96
FLH8	\$1,109.20	\$29.19	\$36.49

Templates and tools

Use the flat rate calculator (excel spreadsheet) to work out the hourly flat rate that takes into account overtime and penalty rates. Visit thepeopleindairy.org.au/employment-rewards/pay_rates

Further reading

National Training Wage Schedule
awardviewer.fwo.gov.au/award/show/MA000104#P1630_73483

National Employment Standards
thepeopleindairy.org.au/engagementreward/national-employment-standards

Stepping Stones provides information on the different types of careers and explores the different pathways available for people looking to start and/or progress their dairy career further available at thepeopleindairy.com.au/steppingstones

Pay rates, Working out a package and the Pastoral Award 2020 are available at thepeopleindairy.org.au/employment-rewards/pay_rates

Record keeping thepeopleindairy.org.au/employment-rewards/record-keeping

Step 3 Is the employee full time, part time or casual?

Under the Pastoral Award 2020 ordinary hours are 152 hours worked over a four-week period. Ordinary hours for casuals are the same as for full-time employees.

Note: Part time employees are entitled to overtime for all hours worked in excess of the agreed part time hours.

All part time and casual employees are entitled to a minimum payment of 3 hours' work. A casual worker must be paid at the hourly rate plus 25 per cent. The minimum engagement period for full time secondary students aged 18 years or younger is 2 hours.

Can I pay a flat hourly rate?

Once you have worked out the relevant minimum amounts of pay required by law and any other benefits which you may be able to provide, you can begin to work out a package.

Sometimes it may be more straightforward to pay a flat rate of pay taking into account overtime and penalty rates. As this is a variation to the award, the employer and employee must formalise the pay rate as part of an Individual Flexibility Agreement (IFA) or an enterprise agreement or an annualised salary arrangement. IFA's and enterprise agreements must pass the Better Off Overall Test (BOOT) to ensure the employee is better off overall compared to the award. Annualised salaries must pass the No Disadvantage Test.

The flat rate calculator will help you to work out a flat hourly rate or an annualised salary that takes into account overtime and penalty rates.

Classifications

Pastoral Award 2020 classification	Job category	Indicative Training level
<p>Farm and livestock hand level 1 (FLH1) Dairy operator grade 1A with less than 12 months' experience in the industry who:</p> <ul style="list-style-type: none"> uses their knowledge and skills to perform set procedures such as milking and attending to livestock, haymaking, fencing. 	<p>Assistant Farm Hand (works under supervision) This category is for people who are involved in a general range of farming tasks and working under supervision.</p>	Certificate II
<p>Farm and livestock hand level 3 (FLH3) Dairy operator grade 1B with 12 months' experience in the industry who:</p> <ul style="list-style-type: none"> uses their knowledge and skills to perform set procedures such as milking and attending to livestock, haymaking, fencing. 	<p>Farm Hand (works under limited supervision) This category is for people who are skilled or unskilled in a range of farming operations and work either independently or as part of a team.</p>	Certificate III
<p>Farm and livestock hand level 5 (FLH5) An employee at this level includes: Dairy operator grade 2 who:</p> <ul style="list-style-type: none"> has two years experience in the industry; uses their knowledge and skills to multiple operations involving basic levels of problem solving and decision making; and has an appreciation of the overall processes involved in a dairy farm. 	<p>Senior farm hand This category is for skilled people working either independently or as part of a team.</p>	Certificate IV
<p>Farm and livestock hand level 7 (FLH7) An employee at this level includes: Senior dairy operator grade 1 who:</p> <ul style="list-style-type: none"> uses their knowledge and skills to coordinate the operation of a farm process or area of expertise e.g. milking and animal attendance, pasture and farm maintenance, breeding programs and artificial insemination area. 	<p>Production Manager (implements policy and sets tactics) People in this role have significant responsibilities in managing the production activities on a dairy farm. Dairy farm production managers demonstrate broad industry knowledge and advanced technical skills.</p>	Diploma
<p>Farm and livestock hand level 8 (FLH8) An employee at this level includes: Senior dairy operator grade 2 who:</p> <ul style="list-style-type: none"> under the direction of the owner or manager uses their expertise and skills in order to supervise and maintain the operation of a dairy farm. 	<p>Senior Production Manager (farm supervisor) (supervises staff and reports to management) People in roles of this category have responsibility for staff and various production activities on the farm. A supervisor is expected to carry out some business management activities like monitoring WH&S in the workplace, preparing operating budgets and supervising work routines of others. A senior production manager uses industry knowledge and may be asked to solve a range of problems.</p>	Diploma
<p>Award-free business manager</p>	<p>Business Manager (sets policy) People in roles in this category have significant responsibility for ensuring the dairy enterprise is managed successfully. They are expected to demonstrate extensive industry knowledge, technical skills and business management principles in order to perform this complex role.</p>	Advanced diploma



Overtime and ordinary hours

(includes example roster)

The Pastoral Award 2020 provides as follows:

Clause 34.2

"The ordinary hours of work of farm and livestock hands (other than station cooks) will not exceed 152 hours in any consecutive period of 4 weeks."

Clause 35.1 and 35.2

"All time worked by an employee in excess of the ordinary hours in clause 34 – Ordinary hours of work and rostering will be regarded as overtime."

Unlike many other awards, the Pastoral Award 2020 does not provide for penalty rates for work on weekends or outside of standard working hours.

Overtime payments involve an additional percentage of the ordinary rate of pay to compensate the employee for working in excess of ordinary hours.

The effect of these two clauses is that for full time and casual employees work on Saturdays and Sundays is only paid at the overtime rate **ONLY** once 152 hours have been worked in a 4 week period.

Farmers can therefore roster around the final Sunday in the 4 week cycle and effectively never have to pay double time (200%).

We have included two example rosters so you can see how overtime can apply over a 4 week period. The differences between the two rosters are in Week 4.

Note: this does not apply to part-time employees who are paid overtime for all hours worked in excess of the agreed part-time hours.

Roster example 1

George and Fiona own a 550 cow dairy farm in South West Victoria. They both work on the farm & they employ Peter on a full time basis as a FLH5 as well as casual relief milkers. Peter works regular 50 hour weeks.

Week	Rostered hours	Ordinary hours or overtime	Total hours for 4 week period
Week 1			
Monday	Day off		
Tuesday	Day off		
Wednesday	10 hours	Ordinary hours	
Thursday	10 hours	Ordinary hours	
Friday	10 hours	Ordinary hours	
Saturday	10 hours	Ordinary hours	
Sunday	10 hours	Ordinary hours	
	50 hours		50 hours
Week 2			
Monday	Day off		
Tuesday	Day off		
Wednesday	10 hours	Ordinary hours	
Thursday	10 hours	Ordinary hours	
Friday	10 hours	Ordinary hours	
Saturday	10 hours	Ordinary hours	
Sunday	10 hours	Ordinary hours	
	50 hours		100 hours
Week 3			
Monday	Day off		
Tuesday	Day off		
Wednesday	10 hours	Ordinary hours	
Thursday	10 hours	Ordinary hours	
Friday	10 hours	Ordinary hours	
Saturday	10 hours	Ordinary hours	
Sunday	10 hours	Ordinary hours	
	50 hours		150 hours
Week 4			
Monday	Day off		
Tuesday	Day off		
Wednesday	10 hours	2 ordinary hours 8 overtime hours at 150%	152 hours
Thursday	10 hours	10 overtime hours at 150%	
Friday	10 hours	10 overtime hours at 150%	
Saturday	10 hours	10 overtime hours at 150%	
Sunday	10 hours	10 overtime hours at 200% (unless feeding and watering stock)	
	50 hours		200 hours

Based on this roster, overtime starts to apply after 2 hours on the Tuesday of the last week of the 4 week period.

Overtime is paid at time and a half (150%) for the remaining 38 hours worked this week and double time (200%) is paid for all of the work on Sunday except for hours spent feeding and watering stock.

Roster example 2

George could vary the roster so that the final Sunday of the month is not worked as follows:

Week	Rostered hours	Ordinary hours or overtime	Total hours for 4 week period
Week 1			
Monday	Day off		
Tuesday	Day off		
Wednesday	10 hours	Ordinary hours	
Thursday	10 hours	Ordinary hours	
Friday	10 hours	Ordinary hours	
Saturday	10 hours	Ordinary hours	
Sunday	10 hours	Ordinary hours	
	50 hours		50 hours
Week 2			
Monday	Day off		
Tuesday	Day off		
Wednesday	10 hours	Ordinary hours	
Thursday	10 hours	Ordinary hours	
Friday	10 hours	Ordinary hours	
Saturday	10 hours	Ordinary hours	
Sunday	10 hours	Ordinary hours	
	50 hours		100 hours
Week 3			
Monday	Day off		
Tuesday	Day off		
Wednesday	10 hours	Ordinary hours	
Thursday	10 hours	Ordinary hours	
Friday	10 hours	Ordinary hours	
Saturday	10 hours	Ordinary hours	
Sunday	10 hours	Ordinary hours	
	50 hours		150 hours
Week 4			
Monday	Day off		
Tuesday	10 hours	2 ordinary hours 8 overtime hours at 150%	152 hours
Wednesday	10 hours	10 overtime hours at 150%	
Thursday	10 hours	10 overtime hours at 150%	
Friday	10 hours	10 overtime hours at 150%	
Saturday	10 hours	10 overtime hours at 150%	
Sunday	Day off		
	50 hours		200 hours

Based on this roster, overtime starts to apply after 2 hours on the Tuesday of the last week of the 4 week period.

Overtime is paid at time and a half (150%) for the remaining 38 hours worked this week.

George has rostered Peter so that he has a day off on the final Sunday of the 4 week period and thus avoids paying double time for that last Sunday. Peter also gets 3 days off in a row at the end of each cycle.



Backpackers

Frequently asked questions

Backpackers – what do I have to pay them?

Backpackers can provide short term staff at times of the year when extra help is needed. Many of the current crop of backpackers are escaping from recession in Ireland and Europe, and are often highly educated, enthusiastic and reliable workers.

Backpackers are entitled to the same minimum standards as any other employee, including correct pay rates for their classification, superannuation, overtime and penalty rates. It is important they are employed correctly, as the Fair Work Ombudsman DO prosecute and people who do not follow the rules give the industry a bad name.

Recruiting backpackers

One farmer who is very successful at recruiting backpackers advises doing up a flyer highlighting the tourist destinations in your area and sending it to backpackers' hostels in your local area, major cities and centres. Ask departing workers to pass the flyer onto their friends. You could also advertise online - suggested sites are available at thepeopleindairy.com.au/eski/employing-someone - and on the Dairy Farm Jobs Board at dairy.com.au/dairy-matters/dairy-jobs-matter/dairy-farm-jobs-board.

It's a good idea to do as much as the recruiting as possible by email, rather than answering constant call enquires.

The challenges

Language can be a barrier, but nothing that can't be got around. Before hiring backpackers, talk to them over the phone and get an idea of their level of English. To get the job, they should have at least some basic English – so they can understand you and you can understand them.

Although demonstration is often the best training, have your farm procedures written out in a variety of languages. A tip is to ask backpackers to rewrite your procedures in their language, noting you are still responsible for their safety and ensuring they understand the procedure/process.

The other main challenge is paperwork. It is the employer's responsibility to ensure people from overseas hold a valid working visa.

You should ask backpackers to provide hard copies of their working visa, tax file number, superannuation, Australian bank account and drivers licence. If they don't know what you are talking about in terms of tax and super, they haven't worked in Australia before. That means you'll have to help them get a bank account, explain about super, etc. It's much easier for you if they already have this paper work set up.

Most backpackers only want short term work, and that can fit with seasonal workload. You can also help out with their visa because it can be extended if they work in agriculture for at least three months. It gives them an incentive to stay and it's worth your time in training them if they stay that long.

Often backpackers come in pairs, so it's good to structure their work requirements around that. Give them some time off together, and some apart. And putting them on split shifts gives them time off in the middle of the day to go to explore the area, or sleep.

Accommodation must be addressed. If there isn't appropriate accommodation nearby, the farmer must be able to house staff and there are a number of options. It is best to provide accommodation for backpackers separate from the family home. One option is to provide cabins, each with a bedroom, ensuite, lounge and kitchen. They pay rent, provide their own food and do their own cooking. You supply the basic furniture, appliances, water gas and electricity. They bring their own phone and internet access. Read more about accommodation at thepeopleindairy.org.au/employment-rewards/accommodation/.

Backpackers generally entertain themselves but it can be nice tell them what's happening in the area, such as major events and point them to websites with local tourist information.

Under the Fair Work Act, your legal responsibilities when hiring a backpacker are the same as for any other employee.

Backpackers – know your workplace rights!

All people working in Australia, including foreign workers, are entitled to basic rights and protections and rights in the workplace. There are 12 basic minimum entitlements known as the National Employment Standards (NES) – visit thepeopleindairy.org.au/engagement-reward/national-employment-standards

The Fair Work Ombudsman provides education, information and advice for employees and has produced a Fact Sheet entitled Foreign workers – Know your workplace rights! For more information, visit the Fair Work website fairwork.gov.au or call their infoline: 13 13 94.

You can also read more at thepeopleindairy.org.au/employees/coming-from-overseas

Checking prospective employee's entitlement to work in Australia

Work rights can be checked by asking to see a person's passport or other evidence of Australian citizenship, such as a birth certificate or certificate of citizenship, as well as appropriate photo identification.

The free **Visa Entitlement Verification Online (VEVO)** service is the safest and easiest way to check work entitlements of all new workers from overseas, providing you with current visa information: immi.homeaffairs.gov.au/visas/already-have-a-visa/check-visa-details-and-conditions/check-conditions-online

Read more, including how often to check visas at thepeopleindairy.org.au/employment-rewards/hiring-people-from-overseas

Visa requirements for backpackers

Backpackers in Australia can be a source of short-term, seasonal labour for dairy farmers but Australian employers need to make sure backpackers they employ have the appropriate visa. It is the employer's responsibility to ensure the paperwork is in order and to pay award wages.

Employers are responsible for checking every worker from overseas has a valid Australian visa with work rights. The free **Visa Entitlement Verification Online (VEVO)** service is the safest and easiest way to check work entitlements of all new workers from overseas, providing you with current visa information: immi.homeaffairs.gov.au/visas/already-have-a-visa/check-visa-details-and-conditions/check-conditions-online The working holiday maker program is a cultural exchange program which allows visa holders to supplement their holiday funds through short-term work. Working holiday maker visa holders working in the dairy industry can work full-time for a period of 12 months with one employer.

Working holiday visa holders who performed 'specified work', in an eligible regional Australian area for a minimum of three months (88 days) while on their first working holiday (subclass 417) visa may be eligible for a second working holiday visa. 'Specified work' can include working on a dairy farm.

Holders of a second working holiday visa may return to work for a further twelve months for an employer with whom they worked on their first working holiday visa. This means if you employed a working holiday visa holder for twelve months on their first working holiday visa and they successfully obtained a second working holiday visa, they would be able to return to your employ for another twelve months.

Changes announced to the Working Holiday Maker (WHM) visa program **apply from 1 July 2019**. Second holiday year visa holders (417 and 462) may be eligible for a third year working holiday visa, allowing visa holders to stay in Australia and work for an additional 12 months if they have worked for 6 months in a specified field or industry in a designated area of regional Australia.

More information is available at: immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/work-holiday-417 and immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/work-holiday-462

(Updated July 2019)



Part-time vs casual workers

Frequently asked questions

What is the difference between part time and casual workers?

Employees may be engaged as permanent full-time, permanent part-time, casual or seasonal employees. It is important to understand the difference between these different categories as the various entitlements and responsibilities are different for each category.

Failure to categorise the employee correctly and therefore to adhere to legal and award requirements can lead to misunderstandings and possibly legal action for underpayment of entitlements and prosecution for breach of the award.

What is the definition of a part-time employee?

Part-time employees are employed for fixed hours every week and have the same entitlements as full-time employees calculated on a pro-rata basis depending on the number of hours worked. Part-time employees are also entitled to notice of termination and to redundancy pay. If public holidays fall on days usually worked, the employee is entitled to payment for that holiday. See over the page for overtime rates.

What is the definition of a casual employee?

Casual employees are employees who have been offered employment on the basis that there is no firm commitment to continuing and indefinite work according to an agreed pattern of work. A typical casual employee is employed on a daily basis when the need arises and can accept or reject work offered to them.

Casual employees are paid a loading to compensate them for lack of entitlements such as annual leave, personal leave and the lack of continuity of work. Casual employees are not entitled to notice of termination or redundancy. If casual employees are rostered to work on public holidays, they are entitled to payment for that holiday.

Templates and tools

Download the Flat Rate calculator to work out the hourly flat rate that takes into account overtime and penalty rates. Visit thepeopleindairy.org.au/employment-rewards/pay-rates-2020

Further reading

National Employment Standards at thepeopleindairy.org.au/employment-rewards/national-employment-standards

Individual Flexibility Agreements at thepeopleindairy.org.au/eski/ifa

Pay rates, Working out a package and the Pastoral Award 2020 are available at thepeopleindairy.org.au/employment-rewards/pay-rates-2020

Record keeping thepeopleindairy.org.au/employment-rewards/record-keeping

What is the loading for casual workers?

Under the [Pastoral Award 2020](#) – 25 per cent. For WA state employers – 20 per cent.

What is casual conversion?

The Pastoral Award 2020 and the National Employment Standards provide for conversion of casual employment to permanent employment. For further information visit fairwork.gov.au/sites/default/files/migration/724/casual-employment-information-statement.pdf

Employers should note that they are required to provide a copy of this document to all casual employees before or as soon as possible after they start work.

Do I have to pay a minimum of 3 hours each shift or 3 hours in total for the day?

For part-time employees the award specifies that the employer must roster the employee for a minimum of 3 hours on any shift.

For casual employees, the award specifies that on each occasion the casual attends for work they are entitled to a minimum payment of 3 hours' work. This means that if the employee is doing two milkings per day each milking must be paid at a minimum of 3 hours. You can't add them together to make up the 3-hour minimum.

The minimum engagement period for full time secondary school students aged 18 years or younger is 2 hours.

Do I have to pay casuals and part timers overtime and penalty rates for work on weekends and public holidays?

Under the [Pastoral Award 2020](#) ordinary hours are 152 hours worked over a four-week period. All hours worked over the 152 hours are paid at overtime rates. Ordinary hours for casuals are the same as for full-time employees.

Once the 152 hours have been worked, overtime is at the rate of time and a half for all hours worked, with double time being paid for any work done on Sundays. Feeding and watering stock on Sundays is paid at the rate of time and one half. Milking is not regarded as 'feeding and watering stock'.

Overtime for casual employees is calculated the same way as for permanent employees. That is, overtime is not payable until 152 hours have been worked in a 4-week period regardless of the day the work is performed.

For more information, refer to the Overtime and Ordinary Hours fact sheet in your ESKi folder (Payroll section).

Part-time employees must be paid overtime rates for all work performed in excess of the agreed part-time hours.

All public holidays are paid at double time. State employers in WA do not pay penalty rates for overtime as the Farm Employees Award which applies as of 1 July 2024 does not provide for overtime payment.

Employees who work similar hours each week

Employees who work similar hours each week, which are known in advance, should be hired as permanent employees, either full time or part time and paid their various entitlements.

Read more about employees at thepeopleindairy.org.au/employment-rewards/employees

What is the Pastoral Award 2020?

An award is an enforceable document containing minimum terms and conditions of employment in addition to any legislated minimum terms.

The Fair Work Commission has responsibility for making and varying awards in the national workplace relations system.

As of 1 January 2010, the only federal award which applies to the dairy industry is the federal Pastoral Award 2020 (which is in the back of the ESKi folder).

Read more about the [Pastoral Award](#) at thepeopleindairy.org.au/employment-rewards/pastoral-award-2020

Do I have to pay overtime if I pay a flat hourly rate?

In some circumstances it may be more straightforward to work out a package for employees, which includes a flat hourly rate of pay taking into account overtime and penalty rates.

As this is a variation to the award, the employer and employee must formalise the pay rate as part of an [Individual Flexibility Agreement \(IFA\)](#) or an enterprise agreement or an annualised salary.

Individual Flexibility Agreements and enterprise agreements must pass the Better Off Overall Test (BOOT) to ensure that the employee is better off overall compared with the award.

You may also consider payment of an annualised salary which allows you to pay the same amount each week provided certain conditions are met and the agreement passes the **No Disadvantage Test** which ensures that the employee is not financially disadvantaged when compared to the award.

The flat rate calculator will help you to work out an hourly flat rate that takes into account overtime and penalty rates.

For further information

Visit thepeopleindairy.org.au/eski/ifa/thepeopleindairy.org.au/eski/annualised_salary/

MODEL PAY SLIP		<i>Designed to conform with federal industrial relations laws.</i>
Employer's name: <insert name>		
Employer's ABN (if applicable): <insert ABN>		
Employee's name: <insert name>		
Employee's classification: <insert classification>		
Date of payment: <insert date>		
Period of payment: <insert dates>		
Method: (Cash / cheque / EFT)		
YOUR PAY HAS BEEN CALCULATED AS FOLLOWS		
Rate for ordinary hours:		\$ <insert amount>
Number of ordinary hours:		\$ <insert amount>
Total payment for ordinary hours:		\$ <insert amount>
Hourly rate if paid by salary:		\$ <insert amount>
Rate for overtime/penalty rate:		\$ <insert amount>
Number of hours of overtime/penalty rate:		\$ <insert amount>
Total payment for overtime/penalty rate:		\$ <insert amount>
Allowances/bonuses/incentives:		\$ <insert amount>
Gross payment:		\$ <insert amount>
Income tax deduction:		\$ <insert amount>
Other deductions (name, number and purpose):		\$ <insert amount>
Nett payment paid or deposited:		\$ <insert amount>
Superannuation fund name and number: <insert name and number of fund>		
Amount of employee superannuation contribution made:		\$ <insert amount>
Amount of employer superannuation contribution made or liable to be made:		\$ <insert amount>



Australian Government
Australian Taxation Office

Superannuation standard choice form

Use this form to choose the super fund your employer will pay your super into. Your choice of super fund is an important decision for your future.

If you don't complete this form, your employer can pay your super into your existing fund identified by the ATO. If you don't have one, your employer can pay into a new account in their default super fund. You can find more information on **page 5**.

How to complete online

Save time: use the online form

**my
Gov**



Australian Government
Australian Taxation Office

Use the online form in myGov to choose your super fund. Your super account details will automatically be filled in for you.

- 1 Sign into *myGov* and select ATO in your services
- 2 In the menu select *Employment*, and then *New employment*. You'll need your employer's information on **page 3** to complete this form.
- 3 Select your preferred fund and give a copy to your employer.

Information

For employees

Additional information about super is located at the end of this form. You can also visit ato.gov.au/individuals/super

For employers

Use the form to offer employees their choice of super fund. You must fill in the details of your nominated super fund, also known as your default fund, on **page 3** before giving the form to an employee.

For more information on super, offering an employee a choice of fund or paying super contributions, visit ato.gov.au/employersuper

Section A Your details

Full name

Employee number (if known)

Tax file number (TFN)

i You don't have to provide your TFN but if you don't, there may be consequences such as your contributions being taxed at a higher rate. See **page 5** for more information.

I choose for my super to be paid into

Select one of the options below and complete relevant section.

My existing super fund



Section B

I want my employer to pay into a super account I have already opened.

My employer's default super fund



Section C

I want my employer to open a new account for me in their default fund.

My private self-managed super fund (SMSF)



Section D

I am a member and a trustee responsible for managing the fund. I may have up to 6 members in the fund.

Section B My existing super fund

Super fund details

- i** You can find your super fund details by:
- logging into your super fund member portal or online account
 - contacting your super fund directly
 - through ATO online services via myGov or the ATO app.

Super fund name

Super fund Australian business number (ABN)

Unique superannuation identifier (USI)

- i** The USI is used to identify different super funds and specific super fund products. It is different to your member account number. You can find your USI on your super fund's website or by contacting your super fund directly.

Your member account number

- i** You can find your member account number on your member account statement, by logging into your super fund account, contacting your super fund directly or through ATO online services via myGov or the ATO app.

Your name as it appears on your account

- i** This must match the name shown on your super account. This may be your current name, or a previous name.

Required documentation

You need to **attach a letter of compliance of your chosen super fund** to confirm it is a complying fund and can accept contributions from your employer.

For most super funds you can find their letter of compliance on their website. For other funds, you will need to contact them for this information.

I have attached a letter of compliance from my super fund

Declaration

I hereby declare that the information I have provided in relation to the nominated super fund is true and correct and I am authorised to provide the information requested.

Signature

Date

Day / Month / Year
 / /

- i** If you have completed this section, this is the end of the form. Return this form to your employer as soon as possible.

Section C My employer's default super fund

Employer to complete

i Employers must complete this section before providing the form to an employee.

Business name

Australian business number (ABN)

Super fund name

Super fund Australian business number (ABN)

Unique superannuation identifier (USI)

Employee to complete

i Make sure the employer default super fund details above have been completed by your employer before you use this form. Ask your employer if it hasn't been done.

I choose for my employer to open a new account for me with their default super fund

Signature

Date

Day Month Year

 / /

i If you have completed this section, this is the end of the form. Return this form to your employer as soon as possible.

Information for Employers

If an employee doesn't return this form

If your employee starts work on or after 1 November 2021, most employers must request the employee's stapled super fund details before making a super contribution.

If an employee doesn't provide you with the correct details, or the fund can't accept your contributions, you will need to request their stapled super fund details from the ATO.

If the ATO advises the employee does not have a stapled super fund, you can make the payment to your nominated default super fund. For more information, visit ato.gov.au/stapledsuperfund

Setting up and paying super for your business

For more information on your super choice obligations, including when you need to offer choice and setting up a default super fund, visit ato.gov.au/employersuper

Help for employers

Phone **13 10 20** between 8am and 6pm, Monday to Friday, to speak to a tax officer about employer super obligations.

Section D My private self-managed super fund (SMSF)

SMSF details

SMSF name

SMSF Australian business number (ABN)

SMSF electronic service address (ESA)

i An ESA is used so the fund can receive electronic messages and payments from your employer using SuperStream. You can find your ESA by contacting your SMSF messaging provider or through your SMSF administrator, tax agent, accountant or bank.

Your full name as it appears on your account

i This must match the name shown on your super account. This may be your current name, or a previous name.

SMSF bank account details

Bank account name

BSB code (please include all six numbers)

Account number

Required documentation

You need to **attach a document** confirming the SMSF is an ATO regulated super fund. You can find a copy of the compliance status for your SMSF at **superfundlookup.gov.au**

I have provided evidence from the ATO this is a regulated SMSF

I hereby declare that the information I have provided in relation to the nominated super fund is true and correct and I am authorised to provide the information requested

Signature

Date

Day / Month / Year
 / /

i If you have completed this section, this is the end of the form. Return this form to your employer as soon as possible.

You can choose any eligible super fund as your chosen fund for your employer to pay your super into. It's an important decision that can affect your retirement savings.

If you choose not to complete this form

If you are a new employee and choose not to complete this form, your employer will check with the ATO if you have an existing super fund. If you do, your super can be paid into this fund, called your 'stapled super fund'.

- If you have multiple funds the ATO will choose one of them as your stapled fund – it may not be the fund you would prefer.
- If the ATO is unable to identify a stapled fund, your employer will be advised to pay your super into their default super fund listed in **Section C**.
- If you started your current employment before 1 November 2021, your employer will pay your super into their default super fund listed in **Section C**.

For more information about stapled super funds, visit ato.gov.au/individuals/super

Tools and resources

- Compare MySuper products ato.gov.au/yoursuper
- Keeping track of your super ato.gov.au/keepingtrack
- What to consider when choosing a super fund moneysmart.gov.au/how-super-works/choosing-a-super-fund
- How to combine more than one super fund moneysmart.gov.au/how-super-works/consolidating-super-funds

Providing your TFN

You don't have to provide your TFN, but if your super fund does not have it, your super contributions may be taxed at a higher rate and you won't be able to make personal contributions to your fund.

Your TFN also makes it easier to keep track of any super accounts in your name so that you receive all your super when you retire.

Finding lost super

It is important to keep track of your super. If you've ever changed your name, address or job, you may have lost track of some of your super.

Having multiple super accounts could mean you are paying fees you are unaware of, which could reduce your retirement savings. Your super is your money, you should check it regularly.

If you have more than one super fund

Having more than one super account could mean you're paying multiple fees and charges, which may reduce your retirement savings. You can consolidate multiple accounts using our ATO online services through myGov.

Before you consolidate accounts, you may want to seek advice on fees this may incur or if you will lose any valuable insurance.

For more information, visit moneysmart.gov.au/how-life-insurance-works/insurance-through-super

For additional support

Phone **13 10 20** between 8am and 6pm, Monday to Friday, to speak to a tax officer.

If you do not speak English well and want to talk to a tax officer, phone the Translating and Interpreting Service on **13 14 50** for help with your call.

If you have a hearing or speech impairment and have access to appropriate TTY or modem equipment, phone **13 36 77**. If you do not have access to TTY or modem equipment, phone the Speech to Speech relay Service on **1300 555 727**.

Your privacy

This form is provided as a means for employees to provide necessary superannuation information to their employer. The ATO does not collect this information. An employer is authorised to collect their employee's TFN under the *Superannuation Industry (Supervision) Act 1993*. It is not an offence for an employee not to quote their TFN. If an employee does not provide their superannuation fund details to their employer, the employer may request the information from the ATO.

For more information regarding employee privacy rights contact your superannuation fund.

500



time & wages recording

time, pay & wages book

for up to 6 employees



Roster template

A roster is a list or a plan that shows when people who work on the farm will be on duty. Rosters are typically used to schedule time off and to schedule tasks. A roster can be a formal computer-generated spreadsheet or written on a year planner, calendar, whiteboard or a roster template.

You should notify your employees of their ordinary hours of work in accordance with a roster which you are required to provide to them in advance:

- From 1 January 2014, all awards include a term that requires employers to **genuinely consult** with their employees about changes to their regular roster and ordinary working hours.
- You should display rosters for your full and part-time employees that show the starting and finishing times of their shifts.
- The rosters should be displayed in an obvious place where all of your employees will see them – such as noticeboard.
- You are required to roster a part-time or casual employee for a minimum of three consecutive hours on any shift.

- Include time for taking breaks and going on leave
- Make sure people are covered for when they are on leave
- Breaks are important for providing rest time as well as an opportunity to get together and chat
- Adhere to the Pastoral Award 2020 and the NES for entitlements to meal breaks, rest breaks and leave
- Under the National Employment Standards, certain employees (including parents with children under school age or a disabled child under 18) have the right to request flexible working arrangements – visit fairwork.gov.au/Employee-entitlements/Flexibility-in-the-workplace/flexible-working-arrangements

Step 2 Consult with employees and gain their commitment

Step 3 Stick to your roster

- Rosters should only be changed in exceptional circumstances
- Changes should only be made after **genuine consultation** with employees

Week beginning:/...../.....

Suggested steps for doing up a roster

Step 1 Draft your roster, with the following points in mind

- Ensure everyone on the farm (including yourself) have the time and opportunity to pursue interests on a regular basis outside of work on the farm
- Ensure the hours worked by all the people on the farm are consistent with their expectations
- Roster on extra people if needed rather than allocate too many hours to a few individuals
- A carefully designed roster can help avoid the need to pay penalty rates for overtime

Note: If you want to change a roster for regular employees you need to consult with them. Visit thepeopleindairy.org.au/employment-rewards/pastoral-award-2020

July 2021

Pastoral Award 2020:		Minimum shift length (part-time): 3 hours	Maximum hours of work without a meal break: 5 hours	Other break entitlements: 10 minutes paid rest break each morning
Minimum shift length (casual): 3 hours		ALL STAFF NOTE: You must take your break as rostered below. Ensure you have at least 30 minutes off if working more than 5 hours.		
Employee's name	Start	Meal break	Finish	
Monday:				
Tuesday:				
Wednesday:				
Thursday:				
Friday:				
Saturday:				
Sunday:				

Note: If you want to change a roster for regular employees you need to consult with them.
 Visit thepeopleindairy.org.au/employment-rewards/pastoral-award-2020

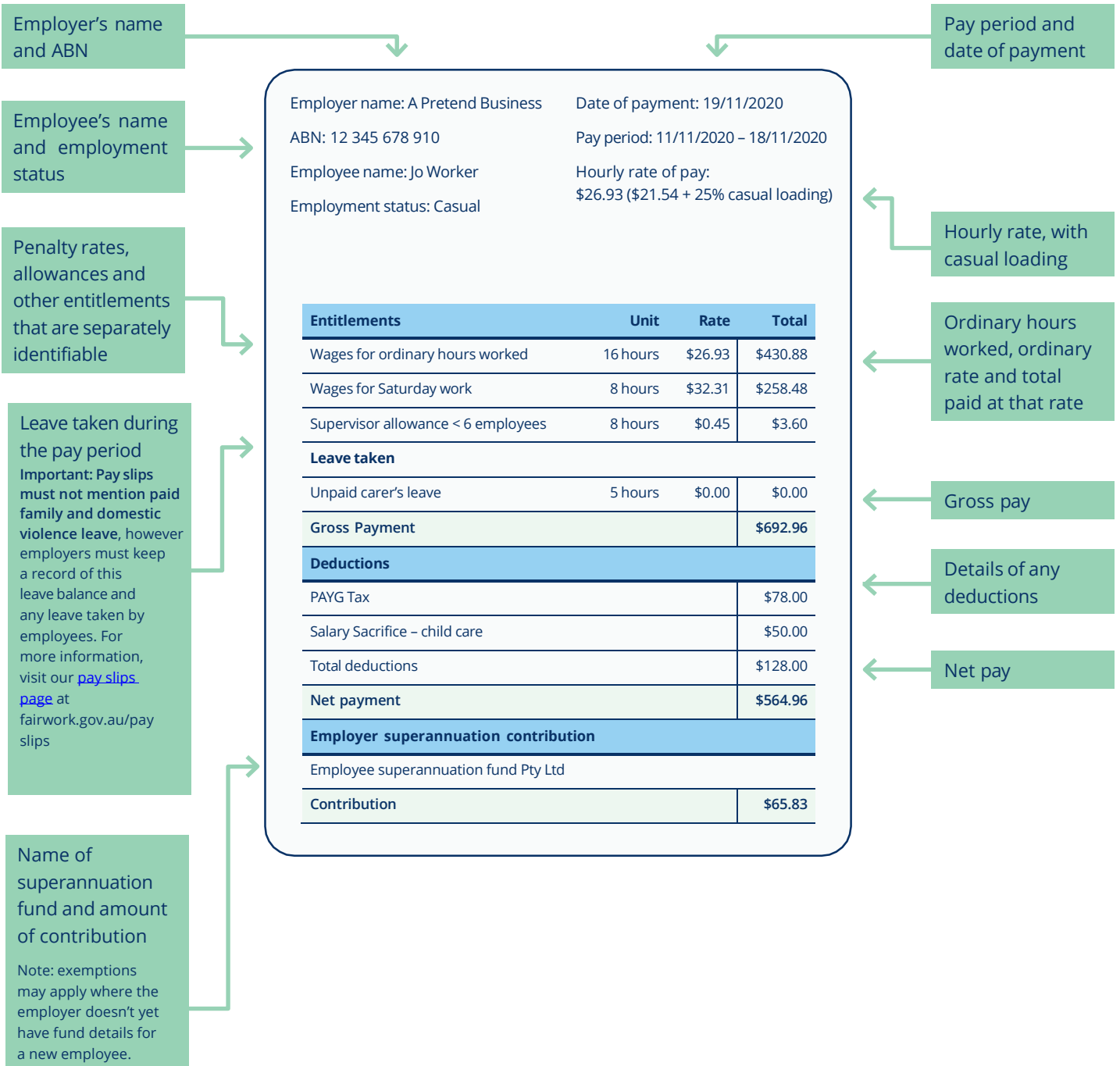
Attachment C: Example pay slip



Important!

This pay slip contains example content to demonstrate the information to include on a pay slip. The business and employee details are for demonstration purposes only.

The amounts and figures used are examples only and may not reflect the current appropriate rates and entitlements that should apply. You can check current pay rates, as well as other entitlements like allowances and penalty rates, using our [Pay Calculator](https://www.fairwork.gov.au/pact) at [fairwork.gov.au/pact](https://www.fairwork.gov.au/pact)



What are employees' leave entitlements

Annual leave

All full-time employees are entitled to four weeks paid annual leave each year. Part-time employees accrue paid annual leave on a pro rata (proportional) basis. The Pastoral Award 2020 (which covers dairy employees) provides for a 17.5 per cent annual leave loading to be paid to award employees when taking annual leave and upon termination if any annual leave is paid out.

Leave loading is a payment of 17.5 per cent in addition to the base rate of pay to compensate employees for the loss of overtime pay while they are on annual leave.

Casual employees are not entitled to annual leave as the casual loading is calculated to include a component to compensate them for loss of annual leave entitlements.

Can employees cash out their annual leave?

Employers and employees covered by the Pastoral Award 2020 can agree in writing to cash out annual leave. Check clause 20.12 of the Pastoral Award 2020 for conditions.

Each agreement to cash out annual leave must be in writing and the payment must be for the full amount that the employee would have been paid if the employee had taken the leave. A separate agreement is required each time annual leave is cashed out.

Schedule G in the Pastoral Award 2020 has a template you can use if an employee wishes to cash out annual leave - see the back of this folder.

Employees who are not covered by an award or enterprise agreement (such as managers) may agree in writing with their employer to cash out annual leave.

Can an employee request annual leave at the busiest time of year?

The information you are looking for is contained in the National Employment Standards. The National Employment Standards state, at section 88:

Taking paid annual leave:

- Paid annual leave may be taken for a period agreed between an employee and his or her employer.
- The employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.



Resource in this section

- Application for leave form
- Leave record template

The Pastoral Award 2020 and the National Employment Standards are bulky documents which, for your convenience, are located at the back of this ESKi folder.

Can I make an employee take leave?

Terms about excessive leave in the Pastoral Award 2020 changed as of **29 July 2017**.

Accrued annual leave is regarded as 'excessive' if more than eight weeks' annual leave has accrued. If employees have accrued excessive annual leave, the employer and the employee can discuss ways to reduce or eliminate the amount of leave owing.

If the employer and the employee cannot agree on the taking of leave, clauses 20.6 – 20.8 of the Pastoral Award 2020 provide a procedure for the employer to direct the employee to take the excessive leave and a procedure for the employee to require the employer to grant the excessive leave.

These provisions only apply if there is an excessive leave balance (more than eight weeks' leave accrued). Read more at thepeopleindairy.org.au/employment-rewards/pastoral-award-2020

How much sick leave do I have to pay?

Sick leave is now called personal leave. Under the National Employment Standards full-time employees (other than casuals) are entitled to 10 days paid personal/carer's leave for each year of service.

Personal/carer's leave accrues on the basis of the employee's ordinary hours of work progressively throughout the year and from year to year and there is no cap on how much of this leave can be used for carer's leave. Personal leave can be taken if the employee is not fit for work due to personal illness or injury, and generally a doctor's certificate should be provided.

Carer's leave can be taken to provide care or support for a member of the employee's household or immediate family due to personal illness or injury or an unexpected emergency. Payment for personal/carer's leave is at the employee's base rate of pay for ordinary hours of work. Unpaid carer's leave may also be taken if personal leave has been used up.

What are the other leave entitlements?

Long service leave

The long service leave laws vary from state to state. Note that as 1 November 2018, long service leave entitlements changed in Victoria - visit thepeopleindairy.org.au/engagement-reward/Vic-state-industrial-laws

Unpaid leave

- Parental and adoption leave of 12 months (unpaid), with a right to request an additional 12 months.

- Community service leave, for activities dealing with certain emergencies or natural disasters.

Family and domestic violence leave

Family and Domestic Violence Leave is a National Employment Standards entitlement of 10 days' paid leave per 12-month period for domestic violence victims to deal with family and domestic violence.

From 1 August 2023, all farm businesses regardless of size, will be subject to the National Employment Standard relating to this entitlement.

Family and domestic violence means

- Violent, threatening or other abusive behaviour by a close relative of an employee, a member of an employee's household, or a current or former intimate partner of an employee that seeks to coerce or control the employee and that causes them harm or to be fearful.

Close relative means the following:

- a member of the employee's immediate family; or
- is related to the employee according to Aboriginal or Torres Strait islander kinship rules.

Immediate family means

- a spouse, de facto partner, child, parent, grandparent, grandchild, sibling of employee;
- a spouse, de facto partner, child, parent, grandparent, grandchild, sibling of employee's spouse or de facto partner;

When does family and domestic violence leave commence?

Family and Domestic Violence Leave applies in full to all employees including part time and casual employees as of 1 February 2023 or 1 August 2023 for small business employers.

Employees who are already employed when the paid leave entitlement starts (ie 1 February 2023 for medium and large businesses or 1 August 2023 for small businesses) can access the full 10 days on the relevant start date. The leave then renews on the anniversary of when they commenced working for their employer (not on the anniversary of the relevant start date).

The start of a casual or seasonal employee's employment is the start of that employee's first employment with the employer.

Family and Domestic Violence Leave does not accrue progressively or accumulate from year to year but is available in full at the commencement of each 12-month period of the employee's employment.

Family and domestic violence victims do not have to have exhausted other forms of leave before accessing Family and Domestic Violence Leave..

Notice and evidence requirements

- Notice must be given to the employer as soon as practicable which can be after the leave has started.
- The employee must advise employer of the expected period of the leave.
- If required by the employer, the employee must provide evidence that would satisfy a reasonable person that the leave is:
 - taken because the employee is experiencing family and domestic violence;
 - the employee needs to do something to deal with the impact of the family and domestic violence; and



You must keep written time and wages records for your employees for 7 years



Learn more

Visit the ESKi at:
thepeopleindairy.org.au/eski

- it is impractical for the employee to do that thing outside the employee's ordinary hours of work.

Examples of actions which an employee experiencing family and domestic violence may include arranging for the safety or relocation of the employee or a close relative, attending court hearings, accessing police services, attending counselling sessions and appointments with medical financial or legal professionals.

Types of evidence

Types of evidence can include:

- documents issued by the police service;
- documents issued by a court;
- family violence support service documents, or
- a statutory declaration.

Confidentiality requirement

Employers must ensure that any information provided by the employee with respect to Family and Domestic Violence Leave is treated confidentially. Family and Domestic Violence Leave balances should NOT be shown on payslips.

This confidentiality requirement does not prevent the employer from making a disclosure if required to do so by Australian law or to protect the life, health or safety of the employee or another person.

Which leave gets paid out on termination?

Accrued annual leave must be paid out on termination. You don't have to pay out accrued personal/carer's leave. Long service leave may have to be paid out on termination see thepeopleindairy.org.au/employment-rewards/pastoral-award-2020 for more information.

Record keeping

Under the Fair Work Act employers have to keep written time and wages records for their employees for 7 years, including records of leave taken and leave balances. Maintaining employee leave records can take up a lot of time. If you employ a number of staff, talk to your accountant or bookkeeper about investing in a computerised accounts package such as MYOB or Quickbooks.

Leave checklist

- Do you have processes in place for employees to apply for annual, personal, compassionate, parental, community service and long service leave? See [Application for Leave form](#)
- Do you maintain accurate records of employee leave entitlements? See [Leave record templates](#)

<insert name of employer>

Application for Leave

Name		Date	
------	--	------	--

Leave applied for:	Starting	Ending	Number of work days
Annual Leave			
Personal/Carer's Leave (including sick leave)			
Compassionate Leave			
Unpaid Carer's Leave			
Parental Leave			
Unpaid Annual Leave			
Other Leave (jury duty, long service leave, community service)			

Less	Holiday and date/s	Number of work days
Public holidays in this period		
Days in lieu owing		
RDOs owing		
Total number of annual leave days		

Signed by applicant		Date	
Approved by manager		Date	
Comments			

Long service leave

Employee name:

Date employee commenced: / / Employee termination date: / /

Long service leave entitlement comes from (e.g. specify the relevant state legislation):

Leave accrual (rate of accrual e.g. weekly, monthly, etc.):

Date	Leave accrual*		Additional days	Leave taken		Details of leave taken		Leave balance
	Weeks	Weeks		From	To	Amount paid \$	Amount paid Date paid*	
/ /	weeks		days	/ /	/ /		/ /	weeks
/ /	weeks		days	/ /	/ /		/ /	weeks
/ /	weeks		days	/ /	/ /		/ /	weeks
/ /	weeks		days	/ /	/ /		/ /	weeks
/ /	weeks		days	/ /	/ /		/ /	weeks
/ /	weeks		days	/ /	/ /		/ /	weeks
Leave balance upon termination of employment								
						Amount paid upon termination of employment \$		
						Date of payment		/ /

Note:

1. All records must be retained for a minimum of 7 years from the date the employee ceases their employment or an alteration to the record is made, whichever occurs first.
2. Where there is a transfer of a business from the old employer to the new employer (e.g. the business changes hands), employee records must be transferred to the new employer for each transferring employee.
3. An employer must ensure that employee records are not, to the extent of their knowledge, false or misleading.

Other leave (e.g. parental leave, leave without pay, etc.)

Employee name: / / Date employee commenced: / /

Type of leave*	Leave accrual*		Hours accrued	Details of leave taken				Reason for leave/Comment*	Balance
	Date	/ /		Leave taken		Certificate*			
				From	To	Yes	No		
	/ /	/ /	hours	/ /	/ /			hours	
	/ /	/ /	hours	/ /	/ /			hours	
	/ /	/ /	hours	/ /	/ /			hours	
	/ /	/ /	hours	/ /	/ /			hours	
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	/ /	/ /	hours	/ /	/ /			hours	

Note:

1. All records must be retained for a minimum of 7 years from the date the employee ceases their employment or an alteration to the record is made, whichever occurs first.
2. Where there is a transfer of a business from the old employer to the new employer (e.g. the business changes hands), employee records must be transferred to the new employer for each transferring employee.
3. An employer must ensure that employee records are not, to the extent of their knowledge, false or misleading.
4. There are additional record keeping requirements for employees taking paid parental leave under the Paid Parental Leave Act 2010 and the Paid Parental Leave Rules 2010. Find out more at www.familyassist.gov.au.

Annualised salaries

As of the first full pay period commencing on or after 1 March 2020, the Pastoral Award 2020 includes a term allowing for an annualised salary to be paid to employees.

While an IFA allows employers and employees to pay a flat hourly rate an annualised salary allows for a flat weekly or fortnightly amount to be paid for all hours worked.

The Pastoral Award 2020 ensures that these annualised salary arrangements don't undermine minimum employee entitlements by providing that the agreement to pay an annualised salary must be no less than the amount the employee would have received under the award for the work performed over the year of the Agreement – or less if the employment is terminated before a year. This is called the no disadvantage test.

What can be included in an Annualised Salary?

- Minimum wages
- Allowances and special allowances
- Hours of work and rostering
- Overtime rates
- Penalty rates
- Annual leave loading
- Payment for public holidays

What is the NO Disadvantage test?

The No Disadvantage Test compares the Annualised Salary amount with the amount amount that the employee would have received if they were paid strictly according to the Pastoral Award 2020. This involves a comparison of the financial rewards the employee would receive if they were not on the annualised salary with the amount they are being paid on the annualised salary. The Annualised salary arrangement will pass the No disadvantage test if the amount is at least the same as they would have received if they were paid by the hour with all penalties and loadings paid in accordance with the Pastoral Award 2020.



Resource in this section

- Template contract for an Annualised salary



You must make sure that the employee is at no disadvantage when compared with the Award.



Learn more

Download the Annualised Salary contract at thepeopleindairy.org.au/employment-rewards/pastoral-award-2020



Check that you are using the latest version of the Annualised Salary Pay calculator (the new pay rates are updated usually on 1 July each year. Visit thepeopleindairy.org.au/employment-rewards/pastoral-award-2020



The annualised salary will need to be recalculated every time there is a minimum wage increase and to reflect increases due to reclassification of the employee, e.g. moving from an FLH1 after one year to an FLH3.



Learn more

Download the Annualised Salary Contract, Annualised Salary Factsheet and pay calculator at thepeopleindairy.org.au/employment-rewards/pastoral-award-2020

Passing the No Disadvantage Test

Using the flat rate calculator, it is relatively straightforward to work out a flat pay rate for full-time employees that takes into account overtime and penalty rates.

To complete the calculator you must work out **the outer limit of the overtime hours** that you expect that the employee will work in a pay period or roster cycle and include this in the figures you use so that you can be sure that you are paying the employee for all hours which will be worked.

Once you have determined the relevant minimum amounts of pay required by law and any other benefits which you may be able to provide, you can begin to work out a package.

See page 3 of the [Individual Flexibility Agreement](#) section for the Flat rate Calculator Tool example.

The process explained

Unlike an IFA an annualised salary can be offered to the employee either before they commence working for you or once they have started working for you. It is just another form of employment contract.

The Annualised Salary Contract

There are specific requirements as to what must be included in the annualised salary contract. The template contract contains these requirements.

Record keeping

The annualised salary contract must contain the outer limit of overtime hours that you expect that the employee will work in any pay or roster cycle and you must keep accurate time record of hours worked.

If in any pay period or roster cycle the employee works in excess of the hours specified in the contract, the employee must be paid for these hours **in addition to** the annualised salary.

Annual tally

Every 12 months or on termination of the employment the employer must do a tally of the hours worked and the amounts paid to ensure that there is no shortfall. If there is a shortfall the employer must pay this to the employee within 14 days.

Termination of the annualised salary contract

An agreement for an annualised salary can be terminated by either party by giving 12 months' notice or at any time by agreement between the employer and the employee. (note that this refers to the agreement only and the employee would remain employed but would fall back to payment by the hour.



If in any pay period or roster cycle the employee works in excess of the hours specified in the agreement, the employee must be paid for these hours in addition to the annualised salary.



Accurate time records of starting and finishing times and breaks taken must be kept and signed by the employee each pay period or roster cycle.



Full time/permanent employment contract templates

For employees on annualised salaries - October 2023

The Pastoral Award 2020 specifically requires employers to give full-time employees a written statement setting out their classification, applicable pay and terms of engagement.

The employment contract must not contain any terms or conditions for work which are inconsistent with or less to the employee than the Pastoral Award 2020 and the National Employment Standards. If it does these terms and conditions will not be enforceable.

- the reporting structures and working relationships that apply;
- levels of performance required

Step 4 Detail other benefits

Clause 19 allows you to detail other benefits, such as accommodation.

Step 5 Meet with the new employee and provide employment contract

Meeting face to face with your new employee to provide the contract and talk about the contents is a good opportunity for:

- you to explain the terms and conditions of employment
- the employee to ask questions, and
- you to describe your expectations for the job.

Step 6 Give your new employee time to consider the employment contract

You should give the person enough time to consider the contents of employment contract and seek their own advice (if they want it) before they accept the offer. When providing the contract you should give a date by when you'd like the person to let you know whether the offer is accepted. Also, it is good practice to give the employee your contact details in case they have more questions.

Step 7 Keep a copy of the signed contract and provide the employee with a copy

Once you have received the signed contract from the employee, return a copy to them. This ensures you both have a record of what has been agreed.

Step 1 Have all the paperwork ready that you'll need

Before you can complete the contract template, you must read the example contract and accompanying notes. The contract makes reference to both the Pastoral Award 2020 and the National Employment Standards, so you might like to have those handy. You'll need the Position Description to make sure the contract matches the job.

Step 2 Complete the contract by filling in the detail where indicated in red

This contract caters for **full-time permanent** employees - fill in the detail, where indicated in red. There is a separate contract for **casual workers** available at: thepeopleindairy.org.au/engagement-reward/contracts-and-agreements

Step 3 Attach the position description

A position description should include:

- the job title;
- a summary of the role and how it fits into the business;
- details of the tasks to be undertaken for the role;

To find out more visit thepeopleindairy.org.au

<insert business name>

EMPLOYMENT CONTRACT

(For Permanent Award Employees of National System Employers on an Annualised Salary)

This is an employment contract

BETWEEN <insert company name/partnership/other name > **the Employer**

AND

<insert employee's full name> **the Employee**

1 Commencement Date

This employment contract commences on the <insert commencement date>.

2 Probation (See Note 1)

- 2.1 Employment is subject to the satisfactory completion of a three-month probation period.
- 2.2 The purpose of the probation period is to enable the employer and the employee to assess their suitability and capability to work together.
- 2.3 During the probation period the employer or the employee has the right to terminate the employment with one week's notice for any reason and without any repercussions.

3 Award

The Pastoral Award 2020 and the federal industrial laws govern this employment contract.

4 Employment Category (See Note 2)

- 4.1 The employee is employed as a full-time permanent <insert position title> to undertake the duties as outlined in the attached position description and such further or other duties reasonably required by the employer in respect of which the employee has the skills to perform and which may include working for an affiliate or related entity of the employer. *[attach position description.]*
- 4.2 By signing this employment contract, the employee agrees that s/he has disclosed to the employer all information including medical and workers' compensation information that could reasonably be held to be relevant to his/her ability to perform the role and duties as described in this clause and the attached Position Description safely and competently.

5 Employment Classification (See Note 4)

The employee is classified as a <insert classification>.

6 Ordinary hours of work (See Note 3)

The ordinary hours of work are <insert ordinary hours of work>.

7 Overtime/Additional hours (See Note 3)

7.1 The employee will be expected to work reasonable additional hours.

7.2 This contract anticipates that the employee will work <insert number of overtime/additional hours anticipated to be worked >

8 Remuneration by Annualised Salary (See Note 4)

8.1 The rate of pay is <insert pay rate> per year which will be paid in 26 fortnightly instalments/52 weekly instalments. *[delete where not applicable]*.

8.2 The employer will pay the employee weekly/fortnightly *[delete where not applicable]* into a bank account/by cheque/in cash *[delete where not applicable]*.

8.3 The entitlements contained in the following clauses of the Pastoral Award 2020 are included in the annualised salary *[delete where not applicable]*:

- a) Clause 32 which deals with minimum wages;
- b) Clause 34 which deals with ordinary hours of work and rostering
- c) Clause 35 which deals with overtime;
- d) Clause 35.5 which deals with payment for public holidays;
- e) Clause 20.5 which deals with annual leave loading.

8.4 The average weekly hours of work will be <insert total weekly hours> which is made up of 152 hours over 4 weeks of ordinary time (as defined in the Pastoral Award 2020) at \$<insert \$ rate for ordinary hours> and <insert number of overtime hours> at \$<insert Award \$ rate for overtime hours>.

The attached spreadsheet details how the annualised salary has been calculated. <attach completed spreadsheet >

8.5 it is anticipated that the outer limit of ordinary hours and overtime hours which will be worked in any pay period or roster cycle without being entitled to additional payment will be <insert outer limit of ordinary/overtime/additional hours anticipated to be worked >

8.6 This agreement to pay an annualised salary may be terminated by either the employer or the employee giving 12 months' notice or by agreement at any time between the employer and the employee.

9 Annual Leave (See Note 5)

9.1 The employee is entitled to four weeks paid annual leave for each completed year of service with the employer. Annual leave accrues throughout the year and from year to year.

9.2 The employee is entitled to an annual leave loading of 17.5% for all annual leave taken or paid out upon termination of employment. This entitlement is included in the annualised salary. ~~<delete if not included in the salary>~~

10 Personal/Carer's leave and Compassionate Leave (See Note 6)

"Immediate family" is defined as follows:

- a) A spouse, child, parent, grandparent, grandchild or sibling of the employee;
- b) A child, parent grandparent, grandchild or sibling of a spouse of the employee.

10.1 The employee is entitled to 10 days' paid personal/carer's leave per year for personal injury or illness. Personal/carer's leave accrues throughout the year and from year to year.

10.2 The employee can use their personal/carer's leave as paid carer's leave for the purpose of caring for a member of the employee's immediate family or household who requires care or support because of personal injury, illness or an unexpected emergency.

10.3 The employee is entitled to two days' unpaid personal/carer's leave per occasion for the purpose of caring for a member of their immediate family or household who requires care or support because of personal injury, illness or an unexpected emergency.

10.4 The employee is entitled to two days' paid compassionate leave per occasion for the purpose of attending the funeral of a member of the employee's immediate family or a member of the employee's household or for spending time with a member of the employee's immediate family or a member of the employee's household who has a personal injury or illness which poses a serious threat to his or her life.

10.5 The employer may require medical evidence or a statutory declaration for any period of personal/carer's leave or compassionate leave.

11 Public Holidays (See Note 7)

11.1 In accordance with the National Employment Standards, the employee is entitled to a day's paid leave for public holidays which fall on days when the employee would ordinarily work.

11.2 If the employee works on a public holiday he/she is entitled to be paid at double time. This entitlement is included in the annualised salary. ~~<delete if not included in the salary>~~

12 Community Service Leave (See Note 8)

The employee is entitled to 10 days paid jury service leave or unpaid leave to attend a voluntary emergency management activity as provided for in the NES. The

employee must provide evidence of the need for the leave if required to do so by the employer.

13 Long Service Leave (See Note 9)

The employee is entitled to long service leave as provided for in the National Employment Standards or state legislation.

14 Parental Leave (See Note 10)

The employee is entitled to Parental Leave in the form of Maternity, Paternity or Adoption Leave as provided for in the National Employment Standards.

15 Flexible Working Arrangements (See Note 11)

The employee is entitled to make a written request for flexible working arrangements once the employee has completed 12 months' continuous service.

16 Family and Domestic Violence leave (See Note 12)

The employee is entitled to leave to deal with family and domestic violence in accordance with the National Employment Standards.

17 Superannuation

The employer will make superannuation contributions to a fund nominated by the employee. The superannuation contribution will be not less than that required under the *Superannuation Guarantee (Administration) Act*.

18 Termination (See Notes 13 & 14)

18.1 The following minimum notice periods apply to termination of employment:

	Employee's period of continuous service with the employer at the end of the day the notice is given	Period
1	Not more than 1 year	1 week
2	More than 1 year but not more than 3 years	2 weeks
3	More than 3 years but not more than 5 years	3 weeks
4	More than 5 years	4 weeks

18.2 If the employee is over 45 years of age and has worked at least two years of continuous service with the employer the period of notice will be increased by one week.

18.3 Payment in lieu of notice will be made if the appropriate notice period is not required to be worked.

18.4 The employee is required to give the employer the same amount of notice as a minimum. This does not include the extra week based on age of the employee. If the employee does not give the employer notice and the employee is over 18 years of

age, the employer can deduct one week's pay from the employee's termination payments.

18.5 If the employee has been given notice of termination he/she is entitled to up to one day off without loss of pay to look for work.

18.6 The period of notice to be given by the employer will not apply in the case of dismissal for serious misconduct that justifies instant dismissal, including conduct which causes imminent and serious risk to the health or safety of a person or the reputation, viability or profitability of the employer's business; attendance at work under the influence of alcohol or drugs; sexual harassment, theft, fraud, assault in the course of employment or refusal to carry out a lawful and reasonable instruction.

19 Other Benefits

[Other benefits e.g. accommodation can be listed here.] (See Note 15)

20 Annualised salary calculator

Paste or attach a copy of the Annualised Salary Calculator here along with the signing clauses

SIGNATURES

THE EMPLOYER

Date _____

Signed _____

Name in full (printed) _____

Position _____

Employer address _____

THE EMPLOYEE

Signed _____

Name in full (printed) _____

Employee address _____

PARENT OR GUARDIAN (IF THE EMPLOYEE IS UNDER 18 YEARS OF AGE)

Signed _____

Name in full (printed) _____

Parent or Guardian's address _____

NOTES TO THE FEDERAL EMPLOYMENT CONTRACT FOR PERMANENT EMPLOYEES – ANNUALISED SALARY

Remove these notes before you give this contract to the employee.

GENERAL – INTERPRETATION

National system employer

This template is for national system employers employing permanent full time employees on an annualised salary who are covered by the Pastoral Award 2020. There is a separate template for non award managers.

All employers in the private sector in New South Wales, Victoria, Tasmania, South Australia, Queensland, the Australian Capital Territory and the Northern Territory are called national system employers.

Businesses in Western Australia run by a company, including trusts with a company trustee, which employ workers as part of their business, are called national system employers.

Employers in Western Australia who run their business as a sole trader, partnership or trust which does not have a company trustee are called non national system employers. They should use the template for Western Australia which applies to managers as well as non managerial employees.

NOTE (1) PROBATION PERIODS

All new employees should be placed on a period of probation to enable both the employee and the employer to determine whether the employee is capable of doing the job and is suitable for the enterprise. Probation periods must be determined before work begins and cannot be extended. The length of the probation period must be reasonable in the circumstances and three months is generally accepted to be reasonable. If employers feel they need a longer period this must be justifiable based upon the special requirements of the job and the responsibilities which the employee will be required to undertake.

The federal industrial laws provide that employees of small businesses engaged for less than 12 months and employees of other businesses engaged for less than 6 months cannot bring an action for unfair dismissal.

NOTE (2) EMPLOYMENT CATEGORY

Full-time employees

Full-time employees are engaged on a permanent basis and the following entitlements usually apply: paid annual leave and personal leave (sick leave, carer's leave, compassionate leave/bereavement leave); parental leave and notice of termination. In addition, the Pastoral Award 2020 specifies payment for public holidays.

NOTE (3) HOURS OF WORK

Hours of work may be governed by an award or legislation. Most employees on dairy farms will be covered by the Pastoral Award 2020 (see below).

Managers

Some managers may be excluded from awards and therefore the federal industrial laws will govern their employment entitlements.

Employers who wish to engage a manager should check that the duties they are performing and their responsibilities are significantly greater than the duties contained in the FLH7 and FLH8 classifications in the Pastoral Award 2020. If the duties match these descriptions then the manager should be engaged as an award employee.

If employers want to put in place hours of work which are more flexible than the award then they should enter into a formal enterprise agreement or an Individual Flexibility Agreement under the award.

Pastoral Award 2020*Ordinary hours*

The term 'ordinary hours' means hours of work where overtime is not payable.

Under the Pastoral Award 2020 ordinary hours are 152 hours worked over a four-week period. Ordinary hours for casuals are the same as for full-time employees.

Overtime

Once the 152 hours have been worked overtime is paid at the rate of time and a half for all hours worked with double time being paid for any work done on Sundays. Feeding and watering stock on Sundays is paid at the rate of time and one half. This does not include milking.

For an explanation of how the 152 hours over 4 consecutive weeks works in practice, download the Overtime vs Ordinary Hours fact sheet at

www.thepeopleindairy.org.au/LiteratureRetrieve.aspx?ID=147571

The National Employment Standards (NES) about reasonable additional hours also applies to award employees. (See below)

Federal Industrial Laws – The NES

The National Employment Standards (NES) apply to all employment contracts as a minimum for all national system employers.

Reasonable Additional Hours

The NES does not use the word 'overtime'. Under the NES, employees may be asked to work reasonable additional hours. The employment contract can only express hours of work in excess of the maximum 38 hours per week as *reasonable additional hours*.

What is reasonable for additional hours is decided by weighing up a variety of factors including risks to occupational health and safety; operational requirements of the business; personal circumstances and family commitments; whether the employee has had notice of the likelihood of the need for additional hours; and whether the employee has previously indicated a willingness or capacity to work additional hours. Generally, this will be a process of balancing the needs of the enterprise with the employee's needs.

NOTE (4) PAY RATES

National system employers

Employers bound by the Pastoral Award 2020 should consider the pay rates contained in this award.

Classifications – Pastoral Award 2020

The Pastoral Award 2020 creates five separate classifications for dairy farm employees with different rates of pay for each classification.

The classifications reflect the different experience and skills of employees. The classifications are as follows:

- dairy operator grade 1A (farm and livestock hand level 1 - FLH1)
- dairy operator grade 1B (farm and livestock hand level 3 - FLH3)
- dairy operator grade 2 (farm and livestock hand level 5 - FLH5)
- senior dairy operator grade 1 (farm and livestock hand level 7 - FLH7)
- senior dairy operator grade 2 (farm and livestock hand level 8 - FLH8)

Pay rates

As pay rates vary, no pay rates are included in this document.

Visit the following websites for more information:

Pastoral Award 2020 http://www.fwa.gov.au/documents/modern_awards/pdf/MA000035.pdf

When determining a pay rate employers and employees should consider not only wages and salary but also other benefits which may be provided by the business for the purpose of making the position more attractive to the employee and thus assisting in staff retention. Employers could consider other benefits such as accommodation and use of vehicles, provision of meat and milk, extra superannuation, and extra leave entitlements.

Frequency of payment

The Pastoral Award 2020 specifies that award employees must be paid weekly or fortnightly.

For more information on working out a remuneration package, including information on Fringe Benefits Tax, visit www.thepeopleindairy.org.au

Annualised salary

This contract formalises payment of an annualised salary which is permissible for employees covered by the Pastoral Award 2020 as of the first full pay period commencing on or after 1 March 2020

Employers and employees can now agree in writing for the employee to be paid an annualised wage or a salary instead of being paid an hourly rate.

The relevant section is clause 17 of the Pastoral Award 2020.

The annualised salary must take into account “ordinary hours” anticipated to be worked and “overtime” anticipated to be worked. It is recommended that this contract only be used if you are able to accurately predict the annual working hours.

The annualised salary can take into account any or all of the following:

- Minimum wages;
- Hours of work and rostering;
- Allowances and special allowances;
- Overtime rates;
- Penalty rates;
- Annual leave loading;
- Payment for public holidays.

It is suggested that the spreadsheet which can be found on the Pastoral Award page of the People in Dairy website be used to calculate the annual salary.

The written agreement

The written agreement must specify the following:

- The annualised salary that is payable.
- Which provisions of the Award are included in the annualised salary.
- The method of calculating the annualised salary specifying each separate component of the annualised salary and any overtime or penalty assumptions used in the calculation.
- The outer limit of the ordinary hours which attract penalty rates in a pay period or roster cycle.
- The outer limit of the overtime hours which will be worked in a pay period or roster cycle without being entitled to an extra payment (see below).

Thus, keeping accurate time records is essential.

A copy of the agreement must be given to the employee and the employer must keep a copy as a time and wages record.

If in any pay period or roster cycle the employee works in excess of the hours specified the employee must be paid for these hours in addition to the annualised salary. Time off instead of overtime (previously TOIL) may be used for any additional overtime worked provided the employer and employee enter into the required formal agreement. (See clause 35.6 of the Pastoral Award 2020)

An agreement for an annualised salary can be terminated by either party by giving 12 months' notice or at any time by agreement between the employer and the employee. (note that this refers to the agreement only and the employee would remain employed but would fall back to coverage by the award)

Entitlements such as annual leave and personal/carer's leave are calculated on the award base rate not the loaded rate. See clause 17.3 of the Pastoral Award 2020

No disadvantage

The annualised salary must be no less than the amount the employee would have received under the award for the work performed over the year of the Agreement – or less if the employment is terminated before a year.

This is similar to the BOOT test for an IFA

The flat rate calculator can be used to calculate the salary to ensure that the employee is not disadvantaged.

Every 12 months or on termination of the employment the employer must do a tally of the hours worked and the amounts paid to ensure that there is no shortfall. If there is a shortfall the employer must pay this to the employee within 14 days,

Record keeping

Records must be kept of the following:

- Starting and finishing times
- Any unpaid breaks taken

These records must be signed by the employee each pay period or roster cycle.

Superannuation

Superannuation is payable on Ordinary Time Earnings (OTE) which are defined in the taxation laws.

Overtime is NOT defined as Ordinary Time Earnings but if you pay a flat rate of pay which incorporates overtime and the overtime is not distinctly identifiable then superannuation must be paid on the full amount.

If, however the payment includes an amount that is “expressly referable” to overtime hours as remuneration for overtime worked then the payment for overtime will not be OTE. (Superannuation Guarantee Ruling SGR 2009/2)

The ATO has issued an administratively binding advice which is on the ATO website. The reference number is 1012597896867.

While this advice is specific to the employer who sought the advice it is useful to ascertain how the ATO might interpret the situation.

If you want absolute certainty then you should seek your own private ruling from the ATO.

The advice states that if the hours which are **ordinary time hours** are **clearly specified in the contract** then superannuation need only be paid on these hours not on all of the hours worked.

This is because the annualised salary does not alter the hours which are ordinary hours of work but rather varies the rate of pay for the overtime hours and those hours.

If you wish to pay superannuation on the 38 hours worked, not the hours inclusive of overtime, then Clause 8.4 must be in the contract. It has been drafted to comply with SGR 2009/2 and the ATO Advice to ensure that the overtime hours are ‘expressly referable’.

The spreadsheet which you will attach to the IFA will also identify the overtime hours.

NOTE (5) ANNUAL LEAVE

The National Employment Standards (NES) apply to all employment contracts as a minimum and the template employment contract contains the NES terms.

The Pastoral Award 2020 contains the NES about annual leave. The Pastoral Award 2020 applies to all national system employers in the dairy industry for all employees in the classifications set out in the award. (See note 4)

Whilst the NES is a minimum, employers may wish to consider offering extra annual leave as part of a package.

The NES & the Pastoral Award 2020

The National Employment Standards (NES) for annual leave is four weeks per year which accrues progressively throughout the year and from year to year.

Annual leave must be paid at a rate which is no less than the base rate of pay for ordinary hours the employee is paid at the time of taking the leave.

Cashing out of annual leave

Annual leave can only be cashed out by award employees if it is a term of an award or enterprise agreement.

As of 29 July 2016 employers and employees covered by the Pastoral Award 2020, can agree in writing to cash out annual leave. The maximum amount of annual leave that can be cashed out in any 12-month period is 2 weeks and employees must keep a minimum of 4 weeks' accrued leave. The Award provides a template written agreement in a Schedule at the end of the award. This agreement must be kept with the employee's employment records.

For a template agreement to cash out annual leave, visit

www.thepeopleindairy.org.au/engagement-reward/national-employment-standards.htm#annual

The Pastoral Award 2020 – Annual Leave Loading

The award also requires payment of a 17.5% annual leave loading for all annual leave. Annual leave loading must also be paid when annual leave is paid out on termination.

Annual leave loading may be included in the calculation for the annualised salary and if this is the case will not be paid when annual leave is taken or paid out.

NOTE (6) PERSONAL/CARER'S LEAVE AND COMPASSIONATE LEAVE

The National Employment Standards (NES) apply to all employment contracts as a minimum and the template enterprise agreement contains the NES terms.

The Pastoral Award 2020 contains the NES about personal/carer's leave. The Pastoral Award 2020 applies to all national system employers in the dairy industry for all employees in the classifications set out in the award. (See note 4)

Whilst the NES is a minimum, employers may wish to consider offering extra personal/carer's leave as part of a package.

The NES & The Pastoral Award 2020

Personal/ Carer's Leave and Compassionate Leave

Under the NES, employees (other than casual employees) are entitled to 10 days paid personal/ carer's leave for each year of service.

Personal/carer's leave accrues on a pro rata basis throughout the year and from year to year and there is no cap on how much of this leave can be used for carer's leave. Personal/carer's leave and compassionate leave accrue on the basis of the employee's ordinary hours of work.

Personal leave can be taken if the employee is not fit for work due to personal illness or injury.

Payment for personal/carer's leave is at the employee's base rate of pay for ordinary hours of work.

Carer's leave

Carer's leave can be taken to provide care or support for a member of the employee's household or immediate family due to personal illness or injury or an unexpected emergency.

Immediate family is defined to mean:

- a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
- a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.

Immediate family includes extended and blended families, de facto partners, step-relationships, adoptive relationships and same sex relationships)

All employees, including casual employees are entitled to 2 days of unpaid carer's leave per occasion. Permanent employees can only take unpaid carer's leave if they have used up all of their paid leave entitlement.

Compassionate leave

Employees are also entitled to 2 days of paid compassionate leave per occasion and casual employees are entitled to 2 days unpaid compassionate leave.

Compassionate leave can be taken on 2 consecutive days, 2 separate days or any other period as agreed between the employer and the employee.

Compassionate leave is available for employees to spend time with a member of their immediate family or household who has developed personal illness or injury or after the death of a member of their immediate family or household.

Payment for compassionate leave is at the employee's base rate of pay for ordinary hours of work.

Notice and evidence requirements

When taking personal/carer's leave and compassionate leave, employees must do the following or they are not entitled to take the leave:

- notify their employer as soon as is reasonably practicable (which can be a time after the leave has started);
- state the period, or expected period, of the absence
- if required by the employer—provide evidence that would satisfy a reasonable person of their entitlement to take the leave. (this can be a medical certificate or statutory declaration)

Cashing out of personal/carer's leave

Personal/carer's leave can only be cashed out if it is a term of an award or enterprise agreement.

The Pastoral Award 2020 does not provide for cashing out of personal/carer's leave. Therefore, employees can only cash out accrued personal/carer's leave if it is a term of a formal enterprise agreement.

NOTE (7) PUBLIC HOLIDAYS
The NES & the Pastoral Award 2020

The NES provides for employees to be absent from work on specified public holidays.

Payment is the employee's base rate of pay for ordinary hours of work.

Full-time employees are entitled to a paid day off for public holidays if they would normally work on that day.

The following days are public holidays for the NES:

- 1 January (New Year's Day)
- 26 January (Australia Day)
- Good Friday
- Easter Monday
- 25 April (Anzac Day)
- Queen's birthday holiday
- 25 December (Christmas Day)
- 26 December (Boxing Day)

If a State or Territory substitutes another day or declares an additional day, the employee is entitled to be absent on that day. If a day is substituted then this day becomes the public holiday for the purpose of working out entitlements and not the other day.

Substitution of other days

The Pastoral Award 2020 allows for employers and individual employees or employers and the majority of employees to agree to substitute an alternative day for the public holiday.

Enterprise Agreements can also provide for substitution of public holidays.

Requests to work on public holidays

An employer may request an employee to work on a public holiday if the request is reasonable.

The request may be refused if it is unreasonable or the employee's refusal is reasonable. The NES provides list of factors to be taken into account when determining the reasonableness of a request or refusal.

Payment for working on public holidays

Payment for working on a public holiday is an award entitlement which does not apply to non award employees such as managers.

The Pastoral Award 2020

Work done on public holidays by farm and livestock hands is paid at the rate of double time. Public holiday pay may be included in the calculation for the annualised salary and if this is the case will not be paid when public holidays are worked.

NOTE (8) COMMUNITY SERVICE LEAVE

The NES provides an entitlement to leave for all employees required to attend jury service and for those who engage in a voluntary emergency management activity.

Jury service leave

Employees are entitled to be paid by their employer for a period of up to 10 days while they are absent from work during a period of jury service.

Payment for jury service leave is the employee's base rate of pay for ordinary hours of work.

Employers can require the employee to obtain payments for jury service leave from the applicable State/Territory or Commonwealth body and these payments will reduce the amount payable to the employee.

Notice requirements – jury service leave

Employers can request evidence that the employee has taken steps to obtain any available payments and evidence of the payments from the State/Territory or Commonwealth body for the first 10 days of the jury service leave. If this is not provided the employer does not have to make the payment for jury service leave.

Voluntary emergency management activities

Employees are entitled to unpaid leave to engage in voluntary activities which involve dealing with a natural disaster or emergency if they are voluntary members of the emergency management body and the body has requested them to attend. Emergency management bodies include fire fighting bodies, civil defence and rescue.

Notice requirements – community service leave

Employees must give employers notice of the need for community service leave as soon as possible and advise the employer of the expected length of the absence. Employers can also require employees to give them reasonable evidence of the need for the leave.

NOTE (9) LONG SERVICE LEAVE

State and territory laws provide for Long Service Leave.

For further information, visit www.thepeopleindairy.org.au

NOTE (10) PARENTAL LEAVE

The federal parental leave laws contained in the NES apply to all employers.

Parental leave involves unpaid maternity leave, paternity leave and adoption leave.

Parents cannot take parental leave at the same time except for a period of up to eight weeks in total. This period of concurrent leave may be taken in separate periods but unless the employer agrees, each period must not be shorter than 2 weeks.

The concurrent leave must not start before the date of birth of the child or the day of placement of the child if the leave is adoption leave unless the employer agrees.

The entitlement exists once an employee has worked for the employer for 12 months. It also applies to certain long-term casual employees.

The laws about parental leave are complex and there are specific requirements for notification. Employers should seek legal advice or advice from their local state farming organisation if an employee becomes eligible for parental leave. For further information visit www.thepeopleindairy.org.au

NOTE (11) REQUESTS FOR FLEXIBLE WORKING ARRANGEMENTS

The laws about requests for flexible working arrangements changed on 6 June 2023.

Section 65 of the Fair Work Act 2009 provides for Requests for Flexible Working Arrangements as part of the NES.

Requests for flexible working arrangements

Requests may be made in the following circumstances:

- the employee is pregnant;
- If the employee is a parent, or has the responsibility for the care, of a child who is of school age or younger:
- The employee is a carer (within the meaning of the Carer Recognition Act 2012);
- The employee has a disability;
- The employee is 55 or older;
- The employee is experiencing family and domestic violence;
- The employee provides care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because the member is experiencing violence from the member's family.

In addition, parents or those who have responsibility for the care of a child and who are returning from a period of parental leave or adoption leave may request to work part-time to assist the employee to care for the child.

Permanent employees can make a request for flexible working arrangements if they have completed 12 months' continuous service with the employer.

Casual employees who have worked for the employer on a regular and systematic basis during a period of at least 12 months and who have a reasonable expectation of continuing work can also make a request for flexible working arrangements.

The request must be in writing and provide details of the change sought and reasons for the change.

The employer and the employee must discuss the request and genuinely try to reach an agreement which will accommodate the employee's circumstances having regard to the following:

- the needs of the employee arising from their circumstances;
- the consequences for the employee if changes in working arrangements are not made; and
- any reasonable business grounds for refusing the request.

Employers must respond to the request in writing within 21 days and give reasons if the request is refused. A request may only be refused on *reasonable business grounds* which should be specified in the written response.

If the request is refused employees must also be provided with details of the reasons for the refusal and details of how the reasonable business grounds apply to them.

In addition, the written response must state whether or not there are any changes in working arrangements that the employer can offer to the employee to better accommodate the employee's circumstances and if so these changes must be set out in the response.

If the employer and the employee reach an agreement on a change in working arrangements that differs from that initially requested by the employee, the employer must provide the employee with a written response to their request setting out the agreed change(s) in working arrangements.

What are reasonable business grounds?

Fair Work Act provides the following list of matters which may amount to reasonable business grounds, but there may be others:

- That the new working arrangements would be too costly for the employer;
- That there is no capacity to change the working arrangements of other employees to accommodate the new working arrangements requested by the employee;

- That it would be impractical to change the working arrangements of other employees or recruit new employees to accommodate the new working arrangements requested by the employee;
- That the new working arrangements requested by the employee would be likely to result in a significant loss in efficiency or productivity;
- That the new working arrangements requested by the employee would be likely to have a significant negative impact on customer service.

The letter must also inform the employee that they can access the Fair Work Commission dispute resolution jurisdiction if they do not agree with the decision.

NOTE (12) FAMILY AND DOMESTIC VIOLENCE LEAVE

Family and Domestic Violence Leave is an entitlement which is a part of the NES.

New laws apply as of 1 February 2023 for medium and large businesses and 1 August 2023 for small businesses

Family and domestic violence means:

Violent, threatening or other abusive behaviour by a close relative of an employee, a member of an employee's household, or a current or former intimate partner of an employee that seeks to coerce or control the employee and that causes them harm or to be fearful.

Close relative means the following:

- a member of the employee's *immediate family*; or
- is related to the employee according to Aboriginal or Torres Strait islander kinship rules.

immediate family means

- *a spouse, de facto partner, child, parent, grandparent, grandchild, sibling of employee;*
- *a spouse, de facto partner, child, parent, grandparent, grandchild, sibling of employee's spouse or de facto partner;*

Family and Domestic Violence Leave is a National Employment Standards entitlement of 10 days' paid leave per 12-month period for domestic violence victims to deal with family and domestic violence.

Changes to this entitlement come into effect as of 1 February 2023 for businesses with 15 or more employees and from 1 August 2023 for small businesses with less than 15 employees. Employees of small businesses remain entitled to 5 days' unpaid Family and Domestic Violence Leave until 1 August 2023.

Family and Domestic Violence Leave applies in full to all employees including part time and casual employees. The start of a casual or seasonal employee's employment is the start of that employee's first employment with the employer.

Family and Domestic Violence Leave does not accrue progressively or accumulate from year to year but is available in full at the commencement of each 12-month period of the employee's employment.

Family and domestic violence victims do not have to have exhausted other forms of leave before accessing Family and Domestic Violence Leave.

Taking family and domestic violence leave

The employee may take family and domestic violence leave if:

- the employee is experiencing family and domestic violence;
- the employee needs to do something to deal with the impact of the family and domestic violence; and
- it is impractical for the employee to do that thing outside the employee's ordinary hours of work.

The employee can take the family and domestic violence leave

- in a single continuous period; or
- in separate periods of one or more days; or
- in any other separate periods agreed between the employer and the employee which may amount to more than the NES provides.

Notice and evidence requirements:

- Notice must be given to the employer as soon as practicable which can be after the leave has started.
- The employee must advise employer of the expected period of the leave.
- If required by the employer, the employee must provide evidence that would satisfy a reasonable person that the leave is
 - taken because the employee is experiencing family and domestic violence;
 - the employee needs to do something to deal with the impact of the family and domestic violence; and
 - it is impractical for the employee to do that thing outside the employee's ordinary hours of work.

types of evidence

Types of evidence can include:

- documents issued by the police service;

- documents issued by a court;
- family violence support service documents, or
- a statutory declaration.

Confidentiality requirement

Employers must ensure that any information provided by the employee with respect to Family and Domestic Violence Leave is treated confidentially.

This confidentiality requirement does not prevent the employer from making a disclosure if required to do so by Australian law or to protect the life, health or safety of the employee or another person.

Payslips

Family and Domestic Violence Leave should not be recorded on pay slips but employers should keep the usual records relating to leave records in the employee's employment records.

For further information about Family and Domestic Violence Leave go to the National Employment Standards page on The People in Dairy website.

NOTE (13) TERMINATION

It is very important to manage employee separation carefully whether the employee is leaving because of resignation, redundancy or dismissal. First, it minimises the risk of legal problems and secondly, it protects the reputation of both your business and you as an employer.

Employers should use fair procedures when terminating employees as replacing employees is expensive and claims for unfair or unlawful dismissal can be costly and time consuming to defend.

Termination of employment can lead to court action. Employers who are considering dismissing an employee should always obtain legal advice before doing so.

Further information can be found at www.thepeopleindairy.org.au

NOTE (14) NOTICE PERIODS

The National Employment Standards (NES) apply to all employment contracts as a minimum and the template enterprise agreement contains the NES terms.

The Pastoral Award 2020 contains the NES about notice of termination plus further terms about employee notice and the job search entitlement. The Pastoral Award 2020 applies to all national system employers in the dairy industry for all employees in the classifications set out in the award.

The NES & the Pastoral Award 2020

Notice Periods

Continuous service' is the time an employee has spent working for an employer without a break and this needs to be calculated so that the notice period can be worked out.

Unauthorised absences from work do not break continuous service but are not counted when calculating how long the notice period should be.

Exclusions from notice requirement

The following employees do not have to be given notice:

- employees employed for a specified period of time, for a specified task, or seasonal employees;
- employees whose employment is terminated because of serious misconduct;
- casual employees;
- trainees (other than apprentices) and whose employment is for a specified period of time or is, for any reason, limited to the duration of the training arrangement.

Termination without notice

The Pastoral Award 2020 and the NES allow for termination without notice in cases of serious and wilful misconduct. The template contains a clause providing for termination without notice in these circumstances.

NOTE 14.1 EMPLOYEE NOTICE

Employees can only be required to give notice if it is a term of an award or enterprise agreement.

Pastoral Award 2020

Under the Pastoral Award 2020 employees must also give the same amount of notice as employers. However, employees do not have to give the additional week of notice based on the age of the employee and length of service.

Employers must give written notice but employees may give verbal notice.

If the employee fails to give notice and is over 18 years of age, the employer can deduct up to one week's pay from the employee's termination payments.

NOTE 14.2 JOB SEARCH ENTITLEMENT

Job search entitlement is an award entitlement.

Pastoral Award 2020

Under the Pastoral Award 2020 where an employer has given an employee notice of termination, the employee is entitled to take one day off without loss of pay to look for other work. The employee can take the day off at a time when it is convenient to the employee after consultation with the employer.

NOTE (15) ACCOMMODATION

For information about accommodation go to

<https://thepeopleindairy.org.au/employment-rewards/accommodation/> for template agreements and information about whether state residential tenancy laws apply.

How to pay a flat rate for all hours worked

This section is intended to illustrate just how much easier your life can be for a bit of extra effort.

Some farmers find that the Pastoral Award 2020 terms are inflexible and don't take into account busy times or the non-standard hours involved in farming work. Wouldn't it be great if you could just pay a flat rate for all hours worked?

You can. The Pastoral Award 2020 includes a 'flexibility term' which enables employers and employees to agree to vary the effect of some award terms and put in place conditions of work which are tailor made to suit the needs of your business and your employees. This is called an **Individual Flexibility Agreement (IFA)**.

There are two ways you can pay a flat rate of pay:

- 1 An Individual Flexibility Agreement (IFA) allows you to pay a flat hourly rate for all hours worked
- 2 An Annualised Salary allows you to pay the same amount each pay day throughout the year - see the previous section for information about Annualised Salaries and visit thepeopleindairy.org.au/eski

The Fair Work Act ensures Individual Flexibility Arrangements don't undermine minimum employee entitlements by requiring the employer to make sure the employee covered by the IFA is 'better off overall' on the IFA compared to the award.

What can be included in an IFA?

Individual Flexibility Agreements can vary **only** the following award terms:

- arrangements for when work is performed such as working hours
- overtime rates
- penalty rates
- allowances
- the 17.5 per cent annual leave loading.

Award entitlements relating to any of these five award matters can be varied by agreement between an employer and an individual employee provided that, overall, the employee is 'better off' under the IFA.



Resource in this section

- Individual Flexibility Agreement example
- IFA letter of offer example



You must make sure the employee is better off overall under the IFA, i.e. the IFA passes the BOOT test.



Learn more

The Flat Pay rate calculator can be downloaded at thepeopleindairy.org.au/eski/ifa



Check that you are using the latest version of the Flat Pay Rate Calculator (the pay rates are updated each year): thepeopleindairy.org.au/eski/ifa

What is the Better Off Overall Test (the BOOT)?

The Better Off Overall Test compares the IFA with the Pastoral Award 2020. The agreement will pass the Better Off Overall Test if on balance the employee is better off than they would have been if no agreement had been entered into and they remained being paid according to the award.

This involves a comparison of the financial rewards the employee receives before and after the agreement is entered into.

The following is a step-by-step process you could use to work out if an agreement passes the Better Off Overall test. There is a spreadsheet on The People in Dairy website (Flat Pay Rate Calculator) which performs this calculation for you.

The process explained

- 1 Employer or employee decides they would like an IFA. They approach the other party with their request in writing (IFA letter of offer). Some employees prefer the certainty of a flat rate.
- 2 Both should ensure the IFA is valid by only varying the five matters listed previously.
- 3 Employer and employee discuss the IFA.
- 4 The employer makes sure the employee is better off overall under the IFA (see Flat Pay Rate information below).
- 5 Both employer and employee sign the IFA. If the employee is under 18 their parent or guardian must also sign.
- 6 Both parties keep a copy.

Passing the BOOT test

Using the flat rate calculator, it is relatively straightforward to work out a flat pay rate for full-time employees that takes into account overtime and penalty rates. The employer and employee must agree to the pay rate as part of the Individual Flexibility Agreement (IFA), and the agreed rate must pass the Better Off Overall Test (BOOT) to ensure that the employee is better off overall compared with the award.

Once you have determined the relevant minimum amounts of pay required by law and any other benefits which you may be able to provide, you can begin to work out a package.

Flat pay rate calculator tool example (as at July 2023)

Use the flat rate calculator tool to work out the hourly flat rate that takes into account overtime, penalty rates and the 17.5 per cent annual leave loading.

How to use the flat pay rate calculator...

- 1 Enter the minimum hourly rate for the position, based on the classification.
- 2 The number of ordinary hours is already entered. It is assumed to be 38 hours as specified in the Pastoral Award 2020.
- 3 Enter any hours worked on Sundays that were after the employee had exceeded 152 hours within a 4-week period.
- 4 Enter the overtime hours worked after the employee had exceeded 152 hours within a 4-week period.
- 5 Enter number of hours and days rostered to work on public holidays over 12 months.
- 6 The average hourly rate will be calculated. This rate is the minimum that needs to be paid to pass the BOOT test.
- 7 Here is an example of a flat rate of pay (\$29.64), calculated using the calculator, for an employee classified as an FLH5 (Senior farm hand) at a minimum hourly rate of \$25.41 (pay rates apply as of 1 July 2024).

Minimum hourly rate for the classification				\$25.41
	No. hours over 4 week period	No. hours per week	Rate	Total
Ordinary hours per week	152	38	1	\$965.58
Sunday >152 hrs/4 wks	10	2.5	2	\$127.05
Overtime hours	38	9.5	1.5	\$362.09
Total hours per week	200	50		
Average hourly rate with overtime				\$29.09
No. public holidays worked and hours/day		10	5	\$1,271.00
Total annual salary				\$75,635
Total hours		2552		
Average hourly rate				\$29.64

If you are thinking of trying out an IFA

If you think you would like Individual Flexibility Agreements for your employees, you should contact your dairy adviser or legal adviser.



The information in this example is current as at printing – stay up to date with the latest pay rates and IFA information at

thepeopleindairy.org.au/eski/ifa



Learn more

Download IFA template documents at thepeopleindairy.org.au/eski/ifa

While an IFA is a relatively simple document, there are a few pitfalls you need to be aware of.

An IFA can also only be made after the employee has commenced employment and is entitled to the minimum award conditions contained in the relevant modern award. This means an employer cannot ask a prospective employee to agree to an IFA as a condition of employment.

Most importantly, you cannot force an employee to enter into an IFA and a person must not be treated adversely or discriminated against for refusing to agree to an IFA.

The flat rate will need to be recalculated every time there is a minimum wage increase and to reflect increases due to reclassification of the employee, e.g. moving from an FLH1 after one year to an FLH3.

Finally, the flat rate and BOOT test will only hold true if your employee's hours of work don't exceed the estimated hours. Accurate record keeping is crucial.

The extra time and effort involved in putting together an IFA has been repaid tenfold by taking the worry out of paying my employee.

Tasmanian dairy farmer

INDIVIDUAL FLEXIBILITY AGREEMENT

Dated the <insert day> day of <insert month> <insert year>

BETWEEN:

<insert employer name> [the employer]

AND

<insert employee name> [the employee] **(See Note 1)**

1. This Individual Flexibility Agreement is made under the Pastoral Award 2020.
2. This Individual Flexibility Agreement begins to operate on the <insert date agreement begins>
3. The employer and the employee hereby agree that the Pastoral Award 2020 is varied as follows: **(See Note 2)**

<You must detail each award term which has been varied and how it has been varied.>

<You must detail how the employee is Better off Overall as a result of the variation to each award term.>

Sample clauses to implement a flat rate of pay. (See Note 2)

- 3.1 *Clause 20.5 (which deals with annual leave loading), clause 35 (which deals with overtime) and clause 35.5 (which deals with payment for public holidays) of the award are varied as follows:*
- 3.2 *In place of payment for annual leave loading, overtime and payment for working public holidays, the employee will be paid a flat hourly rate of pay of <insert \$ amount> for all hours worked.*
- 3.3 *The employee is Better Off Overall than the award because under the award the employee would have received a total of <insert \$ amount> per week/month/year <delete where not applicable>. See attached spreadsheet.*
- 3.4 *The average weekly hours of work will be <insert total average weekly hours> which is made up of 152 hours over 4 weeks of ordinary time (as defined in the Pastoral Award 2020) at \$<insert \$ rate for ordinary hours> and <insert number of overtime hours> at \$<insert \$ rate for overtime hours>. **(See Note 2 re superannuation)***
4. This Individual Flexibility Agreement can be terminated in the following ways:
 - i) if the employer and the employee agree in writing to its termination this Individual Flexibility Agreement will be terminated as of the date of the agreement.

- ii) by either the employer or the employee giving 13 weeks' written notice of termination to the other person. At the end of the notice period this Individual Flexibility Agreement will cease to operate.
5. The employer and the employee have genuinely agreed to enter into this Individual Flexibility Agreement to meet the genuine individual needs of both parties and without any coercion or duress. **(See Note 3)**

SIGNATURES (See note 4)

The Employer

Date _____

Signed _____

Name in full (printed) _____

Position _____

Employer address _____

The Employee

Signed _____

Name in full (printed) _____

Employee address _____

Parent or Guardian (if the employee is under 18 years of age)

Signed _____

Name in full (printed) _____

Parent or Guardian's address _____

NOTES TO THE INDIVIDUAL FLEXIBILITY AGREEMENT

Omit these notes when providing this IFA to the employee

GENERAL NOTES

All of the clauses in this agreement are compulsory.

They should all be completed where applicable and none should be removed.

If the employer wishes to enter into an IFA with an employee they must put the request in writing.

A [template letter of request](#) is on the website.

It is suggested that at this stage a draft of the proposed IFA be given to the employee.

NOTE 1

An IFA can also only be made after the employee has commenced employment and is entitled to the minimum award conditions contained in the relevant modern award.

This means an employer cannot ask a prospective employee to agree to an IFA as a condition of employment.

NOTE 2

This clause must detail each award term which has been varied and how it has been varied.

IFAs can only vary the following award terms:

- arrangements for when work is performed such as working hours;
- overtime rates;
- penalty rates;
- allowances, and
- leave loading.

In addition, the clause must detail how the employee is Better off Overall as a result of the variation to each award term.

What is the Better Off Overall Test?

The Better Off Overall Test compares the agreement with the relevant award. The agreement will pass the Better Off Overall Test if on balance the employee is better off than they would have been if no agreement had been entered into and they remained subject to the award

In most cases this will amount to a comparison of the financial rewards the employee receives before and after the enterprise agreement is entered into.

The following is a step-by-step process you could use to work out if the agreement passes the Better Off Overall test.

There is a spreadsheet on the website ([Flat Pay Rate Calculator](#)) which performs this calculation for you.

Better Off Overall TEST CALCULATOR

- 1. Calculate the minimum amount due under the award**
 - Assess the total hours needed to be worked over a given period (say 4 weeks if using the Pastoral Award 2020 which provides for 152 hours over a 4 week period before any overtime is payable).
 - Work out the total rate of pay for this period of time taking into account any overtime and penalty rates which will be payable.
 - Multiply by 12 months if hours of work will be regular over that time. If hours will not be regular break the calculation down into the various periods when hours will be regular.
 - Add in the value to the employee of double time pay for any public holidays which are usually worked.
 - Add in the value of annual leave loadings if you wish to include these.
 - This will give you the minimum annual amount you will need to pay employees in each classification to meet the Better Off Overall Test.

- 2. Divide the total amount by the total number of hours to be worked over the year.**

- 3. The final amount is the hourly rate you will enter into the agreement for that employee.**

What about superannuation?

Superannuation is payable on Ordinary Time Earnings (OTE) which are defined in the taxation laws.

Overtime is NOT defined as Ordinary Time Earnings but if you pay a flat rate of pay which incorporates overtime and the overtime is not distinctly identifiable then superannuation must be paid on the full amount.

If, however the payment includes an amount that is “expressly referable” to overtime hours as remuneration for overtime worked then the payment for overtime will not be OTE. (Superannuation Guarantee Ruling SGR 2009/2)

The ATO has issued an administratively binding advice which is on the ATO website. The reference number is 1012597896867.

While this advice is specific to the employer who sought the advice it is useful to ascertain how the ATO might interpret the situation. If you want absolute certainty then you should seek your own private ruling from the ATO.

The advice states that if the hours which are **ordinary time hours** are **clearly specified in an IFA** then superannuation need only be paid on these hours not on all of the hours worked.

This is because the IFA does not alter the hours which are ordinary hours of work but rather varies the rate of pay for the overtime hours and those hours.

if you wish to pay superannuation on the 38 hours worked not the hours inclusive of overtime then Sample *Clause 3.4* should be included in the IFA. It has been drafted to comply with SGR 2009/2 and the ATO Advice to ensure that the overtime hours are ‘expressly referable’. The spreadsheet which you will attach to the IFA will also identify the overtime hours.

NOTE 3

An employee or employer must not be forced to enter into an IFA and a person must not be treated adversely or discriminated against for refusing to agree to an IFA.

It is the employer’s responsibility to ensure that an employee has genuinely agreed to an IFA.

Employers should be careful not to make false or misleading statements about the effect of the IFA or penalties could apply. Statements made carelessly may also attract penalties if the employee is misled, even if this was not intended.

It is the employer’s responsibility to ensure that an employee has genuinely agreed to an IFA. This means that the employer should take steps to ensure that the employee fully understands the effect of the agreement as compared to the award entitlements. It is a good idea to have a copy of the award available for the employee to look at.

When making an IFA, an employer should keep in mind any language or cultural differences that might affect the employee’s understanding of the terms of the IFA or their choice to agree to an IFA.

If any employees have limited literacy, employers will need to be especially careful to make sure they understand the effect on them of each clause of the proposed agreement.

NOTE 4

Unlike enterprise agreements, IFAs do not need to be approved by the Fair Work Commission.

It is the employer's responsibility to ensure that the IFA is made correctly, and meets all of the requirements of the FW Act.

An IFA must be in writing and signed by the employer and employee. If the employee is under 18 years of age, it must also be signed by the employee's parent or guardian.

Once an IFA has been made, it is the employer's responsibility to ensure that a copy of the IFA is given to the employee.

The employer must also keep a copy with the employee's employment records.

INDIVIDUAL FLEXIBILITY AGREEMENT LETTER OF OFFER

<insert date>

<insert employee's name>

<insert employee's address>

Dear <insert employee's name>

You are currently employed under the Pastoral Award 2020 as a <enter classification> working ordinary hours of 152 hours per 4 week period and overtime < enter overtime hours > hours per 4 week period.

As discussed with you, we would like to commence paying you a flat rate of pay for these hours based upon an average of <enter hours per 4 week period> hours over a 4 week period.

We propose that this will be converted into flat hourly rate and you will be paid at the same hourly rate every week including when you are on annual leave and on public holidays.

This rate will increase in accordance with the national minimum wage increase on 1 July each year.

Under Australian workplace laws we can only pay you flat hourly rate of pay if we have a formal agreement with you to do this which is signed by both of us.

This agreement is called an Individual Flexibility Agreement.

Please have a look at the attached Individual Flexibility Agreement.

The flat rate of pay we propose paying you is made up of wages for 152 ordinary hours of work per 4 week period and payment of overtime at <enter number of overtime hours per 4 week period> hours per 4 week period as well as public holiday pay for <enter number of public holidays included in the calculation> days per year and annual leave loading at the rate of 17.5%.

Clause 3 of the attached Individual Flexibility Agreement spells out how we have varied the award terms about these entitlements.

Importantly, you will see that the agreement does not change the amount of income you are receiving and you should feel confident that we have no intention of reducing your pay.

Indeed, to be lawful the agreement must provide for you to be better off than the award.

Clause 3.1(b) shows how this is calculated and the attached spreadsheet also shows you in detail what you would be paid if you were paid according to the award.

If there is anything you do not understand please feel free to ask.

Yours faithfully

<insert signature and name of person issuing the letter>

*Attach Individual Flexibility Agreement

*Attach spreadsheet showing calculations

EXAMPLE

Handle employee separation carefully

It is very important to manage employee separation carefully whether the employee is leaving because of resignation, redundancy or dismissal. First, it minimises the risk of legal action and secondly, it protects the reputation of both your business and you as an employer. People who leave employment on a pleasant note are more likely to recommend their previous employer.

Employers should use fair procedures when terminating employees as replacing employees is expensive and claims for unfair or unlawful dismissal can be costly and time consuming to defend. Also, what may be seen as an unfair process can affect workplace morale.

Can I sack someone on the spot?

The Small Business Fair Dismissal Code applies to small business employers with fewer than 15 employees. Under the Code, it is fair for an employer to dismiss an employee without notice or warning when the employer believes on reasonable grounds that the employee's conduct is sufficiently serious to justify immediate dismissal.

Serious misconduct includes theft, fraud, violence, sexual harassment and serious breaches of occupational health and safety procedures. For a dismissal to be deemed fair it is sufficient, though not essential, that an allegation of theft, fraud or violence be reported to the police. Of course, the employer must have reasonable grounds for making the report.

If I'm putting someone off, what do I have to pay them?

You may need to pay any or all of the following:

- Accrued annual leave
- Annual leave loading
- Long service leave



Resource in this section

- Small Business Fair Dismissal Code
- First and final employee warning letter for small business)
- Record of employee warning
- Termination of employment example
- FAQ: Understanding an employee's final pay



You must give an employee a reason why they are at risk of being dismissed and an opportunity to improve.

- Payment in lieu of notice
- Payment for work performed until time of termination
- Superannuation.

Do I have to give three written warnings?

If you employ fewer than 15 employees, the answer is 'No'. You follow the process as outlined in the Small Business Fair Dismissal Code.

Small Business Fair Dismissal Code

The **Small Business Fair Dismissal Code** applies to small business employers with fewer than 15 employees. Although this Code is not compulsory, if an employee is dismissed and the employer has followed the Code, then the dismissal will be deemed to be fair.

The Code provides a checklist, which is a tool to help employers comply with the Code. By completing the checklist you are able to assess and record your reasons for dismissing an employee and the process you went through.

Under the Fair Work Act, unfair dismissal is dismissal which is "harsh, unjust or unreasonable" or where the employee is not given "a fair go all round".

It should be noted that employees of small business employers cannot make a claim for unfair dismissal in the first 12 months following their engagement.

Employees of businesses employing 15 or more employees cannot make a claim for unfair dismissal in the first 6 months following their engagement.

A sample dismissal process for an under-performing employee

- You must clearly warn the employee (preferably in writing) that the employee is not doing the job properly and state that dismissal might occur if performance does not improve. See the **first and final warning letter for small business** in this section of the ESKI.
- You must give the employee a fair opportunity to respond to any allegations of poor performance or misconduct.
- You must allow the employee to have a support person present at any discipline interview.
- You must provide the employee with a reasonable amount of time to improve his or her performance or conduct.
- You should offer to provide the employee with any training or opportunity to develop his or her skills and provide feedback about their performance or conduct.
- You should keep any records of warning(s) made to the employee and of any discussions on how his or her conduct or performance could be improved.
- You can use the **Termination of employment example** when terminating an employee's employment because of unsatisfactory performance or conduct.

If a worker's no good, can I make them redundant?

Redundancy must be genuine, or it will be considered to be an unfair dismissal. Among other things, genuine redundancy requires that the job is no longer required to be done by **anybody**.

I'm downsizing – how do I make an employee redundant?

A job becomes redundant when an employer decides that the job the employee has been doing is no longer needed or that fewer employees are needed to do that type of job because of the operational requirements of the employer's business.

Redundancies usually occur in farming where a farmer is retiring, cutting staff to save costs or introducing new machinery or technology.

Under the federal industrial laws which commenced on 1 July 2009, a redundancy may also be regarded as an unfair dismissal if the employer could have redeployed the employee elsewhere in the business.

It may also be regarded as an unfair dismissal if the employer has not consulted with the affected employees, as required by the Pastoral Award 2020 (clause 26). Redundancy entitlements include:

- Notice of termination and redundancy pay – amount and duration depending on years of service and age
- Paid leave to look for work.

How much notice must I give?

Notice periods are calculated according to the length of the employee's continuous service. These periods are a minimum only and longer notice periods can be given. Employers are required to give written notice.

Employee's period of continuous service with the employer at the end of the day notice is given	Notice period
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

If the employee is over 45 years old and has completed at least two years of continuous service with the employer at the end of the day on which the notice is given, the employee is entitled to an extra week's notice.

The Pastoral Award 2020 provides for employees to give the same amount of notice as employers. Note that employees do not have to give the additional week of notice based on the age of the employee and length of service.

If an employee does not give notice and they are over 18 years of age the employer can deduct up to one week's wages from the employee's termination payments. Read more about notice in the Termination section at thepeopleindairy.org.au/engagement-reward/termination



Learn more

Visit the ESKi at:
thepeopleindairy.org.au/eski

Termination checklist

- Did you know that a position can only be declared redundant if the job is no longer required to be done by anybody?
- Did you know that employees must be given an opportunity to improve their performance?



Australian Government

Small Business Fair Dismissal Code

Commencement

The Small Business Fair Dismissal Code came into operation on 1 July 2009.

Application

The Fair Dismissal Code applies to small business employers with fewer than 15 employees (calculated on a simple headcount of all employees including casual employees who are employed on a regular and systematic basis). Small business employees cannot make a claim for unfair dismissal in the first 12 months following their engagement. If an employee is dismissed after this period and the employer has followed the Code then the dismissal will be deemed to be fair.

Employees who have been dismissed because of a business downturn or their position is no longer needed cannot bring a claim for unfair dismissal. However, the redundancy needs to be genuine. Re-filling the position with a new employee is not a genuine redundancy. The requirements for determining whether a dismissal was a genuine redundancy are contained in section 389 of the Fair Work Act. The Small Business Fair Dismissal Code Checklist attached to this document can assist in determining whether a redundancy is a genuine redundancy.

Further information on the application of the Code, genuine redundancy and unfair dismissal is available at www.fairwork.gov.au or by contacting the Fair Work Infoline on 13 13 94.

The Code

Summary Dismissal

It is fair for an employer to dismiss an employee without notice or warning when the employer believes on reasonable grounds that the employee's conduct is sufficiently serious to justify immediate dismissal. Serious misconduct includes theft, fraud, violence and serious breaches of occupational health and safety procedures. For a dismissal to be deemed fair it is sufficient, though not essential, that an allegation of theft, fraud or violence be reported to the police. Of course, the employer must have reasonable grounds for making the report.

Other Dismissal

In other cases, the small business employer must give the employee a reason why he or she is at risk of being dismissed. The reason must be a valid reason based on the employee's conduct or capacity to do the job.

The employee must be warned verbally or preferably in writing, that he or she risks being dismissed if there is no improvement.

The small business employer must provide the employee with an opportunity to respond to the warning and give the employee a reasonable chance to rectify the problem, having regard to the employee's response. Rectifying the problem might involve the employer providing additional training and ensuring the employee knows the employer's job expectations.

Procedural Matters

In discussions with an employee in circumstances where dismissal is possible, the employee can have another person present to assist. However, the other person cannot be a lawyer acting in a professional capacity.

A small business employer will be required to provide evidence of compliance with the Code if the employee makes a claim for unfair dismissal to Fair Work Australia, including evidence that a warning has been given (except in cases of summary dismissal). Evidence may include a completed checklist, copies of written warning(s), a statement of termination or signed witness statements.

Small Business Fair Dismissal Code Checklist

The Checklist is a tool to help small business employers comply with the Small Business Fair Dismissal Code. Completing the Checklist does not mean that the Code has been complied with, nor is it a requirement of the Code that the Checklist be completed. However, completing the Checklist will help small business employers assess and record their reasons for dismissing an employee. It is in the interests of the employer to complete this checklist at the time of dismissal and to keep it in case of a future unfair dismissal claim.

Employers should read the Code before completing the Checklist, ensuring they understand their procedural obligations under the Code. Meeting these obligations is an important factor in complying with the Code.

1. How many employees are employed in the business? (Include the dismissed employee and any other employee dismissed at the same time).
 - Under 15 employees
 - 15 employees or more

[If under 15 employees, the Fair Dismissal Code applies.]

2. Has the employee been employed in this business as a full time, part-time or regular casual employee for 12 months or more?
 - Yes
 - No

[If No, the employee cannot make an unfair dismissal claim.]

3. Did you dismiss the employee because you didn't require the person's job to be done by anyone because of changes in the operational requirements of the business?

- Yes
- No

If Yes

YES

NO

a. Did you comply with any requirements to consult about the redundancy in the modern award, enterprise agreement or other industrial instrument that applied to the employment?

b. Did you consider if the employee could have been redeployed in your business or the business of an associated entity?

4. Do any of the following statements apply?

I dismissed the employee because I believed on reasonable grounds that:

YES

NO

a. The employee was stealing money or goods from the business.

b. The employee defrauded the business.

c. The employee threatened me or other employees, or clients, with violence, or actually carried out violence in the workplace.

d. The employee committed a serious breach of occupational health and safety procedures.

5. Did you dismiss the employee for some other form of serious misconduct?

- Yes
- No

If Yes, what was the reason?

If you answered Yes to any question in parts 3, 4 or 5, you are not required to answer the following questions.

6. In any discussion with the employee where dismissal was possible, did the employee request to have a support person present, who was not a lawyer acting in a professional capacity?

- Yes
- No

7. If Yes, did you agree to that request?

- Yes
- No

8. Did you dismiss the employee because of the employee's unsatisfactory conduct, performance or capacity to do the job?

- Yes
- No

If Yes	YES	NO
a. Did you clearly warn the employee (either verbally or in writing) that the employee was not doing the job properly and would have to improve his or her conduct or performance, or otherwise be dismissed?	<input type="checkbox"/>	<input type="checkbox"/>
b. Did you provide the employee with a reasonable amount of time to improve his or her performance or conduct? If yes, how much time was given?	<input type="checkbox"/>	<input type="checkbox"/>
c. Did you offer to provide the employee with any training or opportunity to develop his or her skills?	<input type="checkbox"/>	<input type="checkbox"/>
d. Did the employee subsequently improve his or her performance or conduct?	<input type="checkbox"/>	<input type="checkbox"/>
e. Before you dismissed the employee, did you tell the employee the reason for the dismissal and give him or her an opportunity to respond?	<input type="checkbox"/>	<input type="checkbox"/>
f. Did you keep any records of warning(s) made to the employee or of discussions on how his or her conduct or performance could be improved? Please attach any supporting documentation.	<input type="checkbox"/>	<input type="checkbox"/>

9. Did you dismiss the employee for some other reason?

- Yes
- No

If Yes, what was the reason?

10. Did the employee voluntarily resign or abandon his or her employment?

- Yes
- No

If Yes, please provide details

DECLARATION

I declare that I believe every statement or response in this checklist to be true.

Signature

Date

FIRST AND FINAL WARNING LETTER

<insert date>
<insert employee's name>
<insert employee's address>

Dear <insert employee's name>

This letter is to record and confirm the details of the discussion we had in <insert location> at <insert time of day and date> during which you were formally advised that <insert issues or behaviour> was unacceptable.

Details of our discussion and the outcomes we agreed at that meeting are recorded in the attached Advice of First and Final Employee Warning.

I confirm that you were advised that for the next <insert reasonable time frame for improvement> I will be monitoring your behaviour.

We have agreed to meet again at the end of this time to review the situation.

As explained, this is a formal written warning. If you continue to <list issues or behaviour which was unacceptable> your employment may be terminated.

Yours faithfully

<insert signature and name of person issuing the letter>

ACKNOWLEDGEMENT

I have read and understood this letter and the attached Advice of First and Final Employee Warning and have been given a copy.

Employee signature Date ____/____/____

[copy to be kept on Employee's personal file]

FIRST WARNING LETTER

Date ____/____/____

To: _____

Dear _____

This letter is to record and confirm the details of the discussion we had in _____ at _____ during which you were formally advised that the following behaviour was unacceptable:

Details of our discussion and the outcomes we agreed at that meeting are recorded in the attached Advice of Employee Warning.

I confirm that you were advised that for the next _____ weeks I will be monitoring your behaviour.

We have agreed to meet again at the end of this time to review the situation.

As explained, this is your first formal written warning. If you continue to with the unacceptable behaviour as listed above then this will lead to a further written warning and may potentially result in the termination of your employment.

Yours faithfully

Employer signature.....Date ____/____/____

ACKNOWLEDGEMENT

I have read and understood this letter and the attached Advice of Employee Warning and have been given a copy.

Employee signature.....Date ____/____/____

[copy to be kept on Employee's personal file]

RECORD OF EMPLOYEE WARNING

Warning (please tick): first second third and final

Employee name: _____

Position: _____

Employee's representative: _____

Person issuing warning: _____

This warning is about:

Employee's comments:

The Employee must do the following:

If the Employee does not improve the following action will be taken:

Date: ____/____/____

Follow-up / review date: ____/____/____

Signed (person issuing warning)

Signed (employee acknowledgement of receipt of warning)

Signed (management witness)

..... (print name and position)

Signed (employee witness)

..... (print name and position)

[copy to be kept on Employee's personal file]



Letter of termination of employment

(with notice)

Suggested steps for preparing a letter of termination

Before terminating an employee's employment because of unsatisfactory performance and/or conduct, you should make every attempt to address the issues. An employer operating at best practice may follow the steps below before terminating the employment of an employee.

If at any time, you need more information or assistance on addressing and managing underperformance, call your dairy adviser or visit thepeopleindairy.org.au

Step 1 Highlight expected performance and behaviour standards

Performance and conduct issues often arise because employees do not understand what is expected of them. An employer should:

- make sure the employee clearly understands their role, the expected level of output or performance, and the expected conduct at work
- provide the employee with regular performance feedback and inform him or her of any changes needed to his or her work or conduct
- make sure managers and supervisors are equipped to handle unsatisfactory performance or conduct. This includes recognising the reasons for underperformance and providing feedback and training to employees.

Generally, employers must not terminate an employee's employment unless the employer has given the employee written notice of the day of the termination of the employment (which cannot be before the day the notice is given).

You can use this letter when terminating an employee's employment because of unsatisfactory performance or conduct.

The information you need to fill in includes:

- the steps you've taken to counsel the employee about their performance/conduct
- the reasons for the termination of the employment
- the length of the notice period (or amount of payment in lieu of that notice period), and
- the date the employment will end

Are you a small business owner? If you operate a small business it is important that you follow the **Small Business Fair Dismissal Code** when terminating an employee's employment – visit fairwork.gov.au/find-help-for/small-business#ending-employment

Step 2 Identify and address the issue

Speak to the employee about any performance or conduct issues to avoid making assumptions about the situation. Identify exactly what the employee did or does that is unacceptable and what impact this has on the business.

Explain your intention in relation to continuing their employment and importantly, set clear plans for the employee to follow in order to improve. This might include providing education, training and development opportunities.

In any formal meeting, the employee should be allowed to be represented or accompanied by a support person. When reviewing unfair dismissal claims, the Fair Work Commission may consider whether an employer unreasonably refused to allow an employee to have a support person at any discussion relating to their dismissal.

You should keep a written record of any meetings that you have with employees about their performance and/or conduct.

Step 3 Provide written warnings

Provide the employee with a written warning (or warnings) about the unsatisfactory conduct and/or performance. Providing the employee with a warning letter is useful because it:

- sets out clearly what the issue is
- guides the employee about what to do to improve
- sets out the consequences should things not improve, and
- becomes a formal record of the counselling you have done with the employee

Step 4 Create your termination of employment letter

If the issues in question are not or can not be resolved after the employee has had a reasonable opportunity to rectify the situation, you may decide to end the employment relationship.

If you decide to terminate the employee's employment, you need to give the employee written notice of his or her termination.

The letter of termination should:

- outline the reasons for the termination of the employee's employment
- specify the notice period or if the employee will be paid in lieu of that notice, and
- advise the employee of the last day of work

This letter of termination template has been colour coded to assist you to complete it accurately. You simply need to replace the red < > writing with what applies to your employee and situation. Some of the sections are optional as they might not apply to your employee and can simply be deleted.

Explanatory information is shown in blue italics to assist you and should be deleted once you have finished the letter.

Step 5 Meet with the employee to provide the letter of termination of employment

The reasons for termination of employment should be explained to the employee and he or she should be given an opportunity to ask questions.

It is important to carefully explain the information in the letter of termination of employment and ensure that the employee understands.

You should keep a copy of the letter of termination of employment for your records.

Important: An employee may choose to submit a complaint or claim against you (e.g. unfair dismissal, discrimination) even if you follow these steps.

<Print on your business letterhead>

<Date>

Private and confidential

<Insert employee's full name>

<Insert employee's residential address>

Dear <insert name>

Termination of your employment

I am writing to you about the termination of your employment with <insert company/partnership/sole trader name and the trading name of business>.

The next part of this letter sets out an example of best practice performance/conduct counselling prior to termination. It is not prescribed by law. You may not have done all the things in the three paragraphs below so you should delete what is not relevant to your situation.

If you are a small business it is very important that you ensure that you have complied with the Small Business Fair Dismissal Code before you terminate an employee's employment.

On <insert date> you met with <insert name of others at the meeting>. In that meeting, you were advised that <insert advice given to employee regarding improvement of performance or conduct, for example any deadlines for improvement, new targets set etc>. You were issued with a formal <warning/counselling> letter on <insert date>.

On <insert date> you had a second meeting with <insert names of other people at the meeting> and you were advised that your <performance/conduct> had not improved to the level required. You were issued with a second <warning/counselling> letter on <insert date>.

You also attended a meeting with <insert name of others at the meeting> on <insert date>. In that meeting you were issued with a final <warning/counselling> letter. This letter indicated that your employment may be terminated if your <performance/conduct> did not improve by <insert date>.

<I/We> consider that your <performance/conduct> is still unsatisfactory and have decided to terminate your employment for the following reasons:

- <Insert reasons relating to performance or conduct>

Option A: Use this option if you want the person to work his or her notice period.

Based on your length of service, your notice period is <insert number> weeks. Therefore your employment will end on <insert future date to cover all of the weeks you need to give notice>.

Option B: Use this option if you want the person to be paid in lieu of notice.

Your employment will end immediately. Based on your length of service, your notice period is <insert number> weeks. In lieu of receiving that notice, you will be paid the sum of \$<insert amount>.

You will also be paid your accrued entitlements and outstanding remuneration, including superannuation, up to and including your last day of employment.

Yours sincerely,

<Insert name>

<Insert position>

PLEASE KEEP A COPY OF THIS LETTER FOR YOUR RECORDS



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

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: 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/
- **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
- Some 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: 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
- Check Fairwork Australia's National Employment Standards: fairwork.gov.au/employment-conditions/national-employment-standards

How safe is your farm?

Safety in the workplace (farm) is vital for you, your family, employees, contractors and visitors. This section is designed to get you started.

Workplace health and safety (WHS) principles

An employer is required by law to provide every employee with a workplace that is, as far as reasonably practicable, free from risk to the employee's health and safety.

The laws also require that employees take steps to protect their own health and safety by following safety instructions and by using safety equipment. Employees are also obliged to speak up if they feel they are being asked to do something they are not comfortable with.

The workplace health and safety laws have been written to get people to talk with each other about the risks that exist at work. The laws seek to get people to find ways to remove risks before anyone gets hurt.

Every farm is different and, even though there are similarities in work practices and risks, every farm needs its own risk control solution to achieve the best safety outcome.

Register injuries and accidents

When an injury (minor or major) has occurred, the injured person must:

- report the injury or work-related illness to their supervisor or employer as soon as possible
- enter the details in the farm's Injury & Incident Register or have another person complete the Register
- obtain a WorkCover medical certificate from the treating doctor, where the injury requires treatment, and give the certificate to the employer.

Accident and incident records must be retained for at least 5 years.



Resource in this section

- Induction checklist
- Injury and Incident Register Template
- Investigation report template
- Contractor safety induction checklist



Your farm workplace must display the WorkCover "If you are injured" poster and you must maintain a register of all work-related injuries and illnesses.

Investigate accidents

All work-related injuries, accidents and incidents need to be investigated as soon as possible.

The investigation should thoroughly analyse the accident or incident, determine the cause(s) and identify actions necessary to prevent it happening again.

Induction

Induction is a very important part of farm safety and is easy to complete. It is important to set aside the time to properly show the new employee around and clearly demonstrate how to safely use the various equipment on farm.

You can use the **Induction Checklist template** that covers everything you need to explain on your farm and provide him/her with a copy so that they can tick off items as they go and ask questions if they need to.

Once the induction has been completed then both of you can sign to say induction was conducted and understood.

SAFETY AUDIT

Contact your state dairy farmer organisation for more information about safety audits, visit australiandairyfarmers.com.au/national-dairy-advocates-australia/industry-organisational-structure

WorkSafe's top 12 farm safety tips

- Maintenance should be regular and carried out by a suitably-qualified person, particularly brakes on equipment.
- Application of parking brakes prevents run overs, even on relatively flat ground.
- Missing or inadequate guarding, particularly power-take-offs on tractors can catch clothes, hair or body parts.
- Working alone increases risks if something goes wrong. Let someone know where you'll be and when you're due back. Take a mobile or two-way; check in.
- Use equipment best suited for the job.
- Separate people and moving machinery, including trucks making deliveries and pick-ups. Keep them away from power lines – look up and live.
- Get home-made or modified equipment checked by a suitably-qualified person.
- Set a good example by demonstrating safety expectations to workers. Ensure they are properly trained and qualified, including contractors. Relying on someone's (or your own) skill and experience can lead to over-confidence and risk-taking.
- Having fall protection and using it prevents deaths, brain damage and permanent spinal injuries.
- Wear a helmet when riding a quad bike, motorbike or horse.
- Working areas of farms and farm machinery are no place for children.
- Know your limitations.



Learn more

Every farm is different and, even though there are similarities in work practices and risks, every farm needs its own risk control solutions to achieve the best safety outcomes.

You can use the information and templates on the People in Dairy website to develop processes and/or documents that will help make your farm safer. Visit thepeopleindairy.org.au/farmsafety

Keep up to date and visit the ESKi at thepeopleindairy.org.au/eski

Safety checklist

Use these questions as a starting point to working out what you need to do to make your farm safer.

- Do you have an induction process for employees, contractors and visitors?
- Do you have a workplace health and safety policy and do you have procedures that are followed for all tasks?
- Do you have a documented risk management process that includes manual handling, chemicals, plant, confined spaces, working at height and electrical?
- Do you have a consultation/communication system with employees?
- Is there an emergency response plan for the farm?
- Do you have a documented process for hazard, accident and incident reporting?
- Are there adequate amenities for people in the workplace?
- Do workers possess licences and/or certificates of competency for the plant they operate and tasks they undertake? (e.g. forklift licence, driver's licence, chemical user's certificate)
- Does all plant and equipment used in the workplace comply with regulations? (includes guarding, noise, design, maintenance and use)
- Do you have a process for managing work environment hazards including noise, dust, hot and cold conditions and sun exposure?
- Have you addressed child safety in the workplace?
- Are chemicals managed correctly – records, storage, personal protective equipment, usage, material safety data sheets, signage?
- Have you displayed adequate signage in the workplace? (e.g. visitor directions, traffic movement, specific hazards, use of personal protective equipment, general warnings)
- Does personal protective equipment meet legal requirements – quality, comfort, storage, maintenance, usage?
- Do you have a policy/procedure which enables people working in remote and isolated locations to receive assistance in emergency situations?



Farm Safety Starter Kit



Developed by dairy farmers for dairy farmers, the Farm Safety Starter Kit provides practical, easy to use resources to enable you to get your Farm Safety System started or improve the existing system.

Each section includes instructions to assist you identifying hazards on your farm. The resource also contains a back pocket to store copies of previous scans or other related documents.

Order at thepeopleindairy.org.au/fssk

To find out more visit thepeopleindairy.org.au/farmsafety

Farm Safety Starter Kit contains:

Farm Safety Induction

A checklist on the key areas to be covered for new employees, roles and responsibilities for farm managers and employees

Safety System Snapshot

A 'traffic lights' format which compares your farm system to the law (15 mins)

Quick Safety Scans

A set of one page scans on the key hazard areas on the farm (30 mins)

Injury and Incident Register

Action plan

To assist you to follow up on the areas that need to be fixed or improved



Induction checklist

Be prepared and plan the first few days for every new employee

The first few days on a new job can be daunting.

Take the time to plan some induction activities for your new employee. Include:

- introducing them to other staff and any important clients or suppliers
- giving them the grand tour of your workplace, including Work Health and Safety and emergency procedures and exits, to make sure they know where to find everything they'll need to do their job
- any formal or informal training, such as operating machinery
- giving them time to find their way around and settle in.

As an employer, you will need to allow adequate time for yourself or a supervisor/manager to ensure new employees receive appropriate induction training and support, including all aspects of a workplace health and safety induction on the farm.

Staff induction activities should be designed to provide employees with the information they need to do their job effectively, enjoyably and safely.

No employee can walk into a new job and be fully effective from the first day – effectiveness grows with understanding of the farm and the details of its operation. Overall employees perform better, and are more likely to stay in the job longer, when they are clear about what is expected of them from the beginning. It is important to ensure that every employee receives appropriate induction training.

Employers and new employees starting work on a dairy farm can access a 90 day onboarding framework online in Enlight. **Access the starting a job in dairy online modules here.**

The 90-day journey has a series of coaching guides that provide you with a framework to safely and effectively onboard (or induct) a new employee. **Access coaching resources on Enlight here.**

New employees can complete online modules as part of their onboarding about safety on dairy farms and their responsibilities. This can occur before they arrive to work on the farm. **Access pre-employment modules on the People in Dairy website here.**

Step 1 Arrange a time with your new employee for an induction to the basics before you put them to work

The use of an induction program checklist ensures that all necessary areas are covered. Use the checklist to have everything in place before you meet with your employee and to schedule the various components, including booking time with other staff involved (e.g. the bookkeeper regarding paperwork) and various subcontractors.

Step 2 Meet and show your new employee around the farm

Induction continues until the probationary period is finished. Ask the new employee to sign the checklist after the induction program, and preferably before they start work, you will then have an acknowledgment that the employee has been shown the basics of the position.

Throughout the induction period:

- explain the Farm Policies and Systems you use to manage farm safety and incidents that may occur on your farm such as accidents, injuries, emergencies or discrimination;
- identify any training required;
- allow your new staff member to ask questions, particularly if they don't fully understand something. Stress that no question is a dumb one. As an employer, you have a responsibility to be supportive
- be supportive rather than just 'ticking the box' on induction.

Advice and templates regarding standard operating procedures and policies are available to help you develop your farm procedures and policies and keep necessary records of any incidents.

Visit thepeopleindairy.org.au/farm-safety

Note

The Farm Safety Starter Kit complements the Employment Starter Kit Initiative (ESKi) which contains more information about managing induction.

Visit thepeopleindairy.org.au/eski

Induction checklist

Employee's name:

Area	Action to be taken	Date	Initial
Introduction to the farm business	History of the business		
	Goals of the business		
	Culture and values (code of conduct)		
	The team (organisational chart)		
	The farm map		
	Other:		
Terms and conditions of employment	Position description		
	Probationary period		
	Hours of work		
	Leave		
	Pay amount, method, frequency		
	House set up – power and phone		
	Training needs, plan		
Other:			
Paperwork	Contract or Letter of engagement – signed and copy for both parties		
	Tax declaration		
	Superannuation		
	Employee details form		
	Proof of qualifications, work permit (if not Australian), driver's licence, other licences such as chemical users certificate, first aid, forklift licence		
	Bank account details		
	Reimbursements		
	Other:		
Rosters, applying for leave	When rosters are available		
	Time recording		
	Reporting absences		
	How to apply for time off		
	Other:		

Employee's name:

Area	Action to be taken	Date	Initial
Company policies	Work clothing		
	Personal health and hygiene		
	Drug and alcohol policy		
	Anti-discrimination and harassment policy		
	Sexual harassment policy		
	Return to work policy		
	Disciplinary and grievance procedures, conflict management		
	Policy for when visitors/contractors are on the farm		
	Privacy		
	Personal visits, telephone calls etc.		
Other:			
Work Health and Safety procedures	Personal protective equipment issued		
	Manual handling		
	Electrical safety		
	Chemical safety		
	Workshop safety		
	Cattle handling		
	Working on your own communications		
	Hazard, injury and accident procedures and reporting		
Other:			
Emergency procedures	Who to contact in emergency		
	Trained first aiders		
	First aid stations / kits		
	Fire safety equipment		
	Emergency assembly points		
	Evacuation procedure		
	Other:		

Employee's name: _____

Area	Action to be taken	Date	Initial
Operating machinery	Milking machinery		
	Quad bike, motor bike		
	Chainsaw		
	Tractors and attachments		
	Other:		
Farm tour and general information	Dairy		
	Toilets and facilities		
	General tour, identification of hazards		
	Telephone answering and messages		
	Computer systems		
	Where manuals are located		
Other:			
Inductions	Staff (their roles, responsibilities)		
	Supervisors		
	Owners, management		
	Other people living on the farm		
	Contractors, suppliers, vet		
	Neighbours		
	Local organisations, clubs		
Other:			
Introduction to the specific: job tasks	Arrangements for walk through each element of job		
	'Buddy'		

Other comments

Induction conducted by (name) _____
Date of induction _____
Employee's signature _____



Injury and incident register

*** Insert Manager's name and contact details before proceeding ***

Date of injury

Name of person injured: _____ Date of birth: _____

Status (employee, contractor, visitor): _____

Address: _____

Signature (injured person or person reporting): _____

Details of injury or incident

Date of entry or incident: _____ Time: am/pm _____

Date reported: _____ Time: am/pm _____

Injury/incident reported to: _____

Injury/incident location: _____

Activity engaged in at time of injury/incident: _____

Details of the injury

Cause of the injury/incident: _____

Name of witness(es): _____

First aid attendant (if applicable): _____

First aid treatment (if applicable): _____

Name and address of doctor (if applicable): _____

Completed by: _____

Notification: _____

Police: _____

Workcover Authority: _____

Insurer: _____

*** File this document in the relevant farm folder and retain for five years ***



Injury and incident investigation report

All work-related injuries, accidents and incidents need to be investigated as soon as possible and controls put in place to prevent them recurring.

The investigation should thoroughly analyse the injury or incident, determine the cause(s) and identify actions necessary to prevent it happening again.

*** Insert Manager's name and contact details before proceeding ***

Date of report: _____ Date of incident: _____

Location of incident: _____

Investigation team _____

Manager or supervisor: _____

Employee or other person working on the farm: _____

Check boxes as appropriate

Lost time Medical treatment

First aid None

Reported to Workcover insurance agent

Details of damage (plant/property/equipment) _____

Details of injury/incident _____

Key contributing features _____

Immediate causes

Underlying causes

Intermediate action taken to prevent further risk of injury or recurrence

Recommendations

Actions and responsibilities

Completion date:

Name of manager or supervisor::

Signature:

**** File this document in the relevant farm folder and retain for five years ****



Contractor safety induction checklist

Farm/Business name: _____

The health and safety of all the people who work and live on this farm is the most important responsibility that we all share.

As the farm owner / manager, we have responsibility for the health and safety of everyone who works or visits this farm, and this includes contractors.

The following information describes the safe work arrangements that we see as vital for ensuring the health and safety of workers and visitors to this property.

We will step you through our contractor induction process, however, you should also read this document

carefully, make sure you understand it, that your needs are addressed and that your responsibilities are clear.

If you do not understand any section, ask for an explanation. As a contractor working on our farm, we ask that you provide this information to your workers as well. Extra copies are available.

If at any time, you feel you cannot do your job safely, stop and discuss it with the farm manager or the person from the farm supervising your work. We will then work together to fix the problem.

Contractor details

Name _____

Position _____

Company _____

Details already on file? Yes No If no, fill in below

ABN _____ Licence/Registration (if applicable) _____

Address _____

Phone number _____ Mobile _____

Email _____

Names of employees who could attend on site: _____

Services provided _____

Relevant insurances you hold (Insurer / Policy Number / Cover / Expiry Date)

Public Liability _____

Workers Compensation _____

Other _____

Approach to work

- 1 As a contractor to our farm, we regard you as a professional person in your trade / area of expertise. As such, you have responsibilities for your own safety and the safety of your co-workers, and others that your work activities may impact upon.
- 2 All contractors are responsible for ensuring they and all persons working for or contracted by them have completed a basic site induction and have read and understood the safety requirements detailed below. This must be done prior to commencing work.
- 3 All contractor equipment, materials and personal protective equipment must be in good condition, be properly maintained, suitable for the job at hand and comply with the relevant legislative requirements and/or Australian Standards.
- 4 All work must be conducted in a safe, healthy and environmentally responsible manner and comply with all legal/regulatory requirements. The appropriate codes of practice from safeworkaustralia.gov.au relating to the work must be followed where reasonable and practical to do so.
- 5 Safety and protective equipment (e.g. hearing, foot, eye protection, hard hats, high visibility vests, etc.) must be worn/used as appropriate to the work being carried out.
- 6 Farm staff and visitors should be demarcated/isolated from the work you are doing with appropriate warning signs, barriers etc.
- 7 Please do not bring children onto the farm.

Hazards on the farm

- 8 A farm map is provided. Marked on the map you will find hazards that we have identified which may affect the work that you do. These include:
 - Powerlines
 - Dams, creeks and waterways, wet areas
 - No-go zones
 - Others (if relevant)
- 9 A copy of our asbestos register will be provided where relevant.
- 10 We are striving to continue improving the working environment to prevent injury and illness. Please tell us of any hazards that you and your workers become aware of. We welcome any suggestions on how we can make our farm safer.

Working on your own

- 11 Always let someone know where you or your workers plan to be on the farm and take a mobile phone or some other way to communicate in case of an incident.

High-risk work

- 12 For any high-risk work (e.g. working at heights, confined space work, working with hazardous substances), you must have appropriate training and the correct equipment for the job. For high-risk work, an appropriate formal risk assessment must be completed prior to commencement.

Handling chemicals

- 13 A current Safety Data Sheet (SDS) must be available for all chemicals used.
- 14 Anyone handling chemicals on the farm must comply with the instructions on the label and the Safety Data Sheet (SDS).

Equipment operation and maintenance

- 15 Equipment belong to this farm can only be used by authorised persons. Discuss any of your requirements with us prior to commencing work.
- 16 Only authorised people can operate equipment on this farm. You and your workers must comply with all the safety warnings on machinery and equipment, and in the operator's manual.
- 17 No equipment is to be repaired or maintained unless properly isolated / switched off and / or stopped.
- 18 Any equipment or materials found to be unsafe should be reported immediately to the person in charge and should be tagged 'out of service'.
- 19 All mains powered portable electrical equipment must have a current test tag.

Machinery, vehicles and traffic

- 20 Please abide by speed limits and watch carefully for pedestrians.
- 21 There may be children on this farm. Their safety is a high priority. Please be careful when driving vehicles or machinery – never reverse without checking for children.
- 22 No passengers are permitted on tractors, quad bikes or other farm machinery.
- 23 Keys must be removed from machinery after use.
- 24 Vehicles should be parked at:

Injury and incident reporting

- 25 All incidents, accidents and near misses must be reported to management and entered in the appropriate records. If you don't report an incident, accident or near miss, the farm won't get the opportunity to look at the situation that caused it. This means that it could happen again with far greater consequences!
- 26 All injuries or illness must be entered in the injury record book. It is located in:

Being ready for emergencies

- 27 Fire extinguishers are located as per the map, please carry your own and obey seasonal and total fire ban requirements.
- 28 First aid kits are located at:

and the following people are trained in first aid:

- 29 Have the emergency telephone numbers keyed into your mobile phone. They are:

Phone

Phone

Phone

- 30 Know how to reach the emergency assembly point located at:

General requirements

- 31 Prior to coming on the farm and again when you leave. Always contact:

Phone

- 32 Agree to respect the business privacy/confidentiality policy of the farm.
- 33 Ensure that you and your workers come dressed for work in suitable clothes that do not pose a safety risk.
- 34 Maintain reasonable standards of housekeeping, cleanliness and hygiene. Washing facilities and toilets are located at:
- 35 No form of harassment/bullying will be tolerated.
- 36 No one may be in possession of, consume or be suffering the effects of alcohol or illegal drugs.
- 37 No smoking in the farm vehicles, dairy or any other farm buildings.
- 38 No firearms are to be brought onto the farm.
- 39 No dogs are to be brought onto the farm.

Specific induction information

Spraying contractors

- Have Safety Data Sheets (SDS) available for chemicals to be used.
- Use chemical as per labelled and SDS instructions.
- Use PPE according to label and SDS instructions.
- Only use trained operators to apply chemicals.
- For mixing/loading and wash down, use only the specified site at:

- Ensure spray equipment is calibrated and in good working condition.
- Only spray in suitable weather conditions with care not to affect the surrounding environment.
- Report any incident relating to chemical use eg: spills, to farm management.

Livestock and general carriers

- On or before arrival to receive despatch or delivery instructions, drivers must contact:

Phone

- All drivers and operators must be wearing appropriate work boots.
- High visibility vests are to be worn at night.
- Plan and allow sufficient time to reduce fatigue when driving long distances.
- If trucking livestock or delivering products at night, ensure that there is adequate lighting for loading/ unloading.
- Trucks must be fitted with reversing alarms.
- Truck drivers and others must not climb onto the top of stock crates without a fall arrest system in place.

Earthmoving contractors

- All operators must be trained and competent to operate skid steer and load shifting machinery.

The safety of the people on this farm is our number 1 priority.

Remember, at _____
we want everyone to go home to their family in the same condition that they arrived at this farm.

I have read and understood these CONTRACTOR SAFETY REQUIREMENTS

Signed _____

Name (please print) _____

Date _____

Note: This document does not, in any way, excuse a person from doing all that is reasonable to ensure the health and safety of themselves and others.

What is the Pastoral Award 2020?

Awards are legal documents setting out minimum rates of pay and conditions of employment which apply to employees in a particular industry or occupation. Laws and awards override employment contracts. An employer and employee cannot agree to 'contract out' of an award; that is, offer pay or conditions lower than those in the award.

As of 1 January 2010 the federal Pastoral Award 2020 covers employees in the dairy industry.

Clause 3 of the Pastoral Award requires that employers must ensure that copies of the award and the National Employment Standards are available to all employers covered by the award on a noticeboard which is conveniently located at or near the workplace or through electronic means, whichever makes them more accessible.

The Award is quite bulky, as it also covers other Pastoral industries. The sections relevant to dairying are:

- Part 1 – Application and Operation
- Part 2 – General Employment Conditions
- Part 3 – Leave, Public Holidays and other NES entitlements
- Part 4 – Consultation and Dispute Resolution
- Part 5 – Termination
- Part 6 – Broadacre Farming and Livestock Operations
- Schedule B – Summary of Hourly Rates of Pay
- Schedule C – Summary of Monetary Allowances
- Schedule D – Supported Wage System
- Schedule E – Agreement for time off instead of payment of overtime
- Schedule F – Agreement to Take Annual Leave in Advance
- Schedule G – Agreement to Cash Out Annual Leave



Resource in this section

- Pastoral Award 2020
- National Employment Standards



You must ensure that copies of The Pastoral Award 2020 and the National Employment Standards are available to all employees covered by the award on a noticeboard that is conveniently located at or near the workplace or through electronic means, whichever makes them more accessible. Copies are available at thepeopleindairy.org.au/eski



Tip

For quick and easy access and ease of use, download the Pastoral Award 2020 at thepeopleindairy.org.au/eski



Learn more

To find the latest pay rates, check out the ESKi at thepeopleindairy.org.au/eski

Information in these sections covers all Pastoral industries, including dairy.

Part 6 contains specific information regarding classifications and pay rates relevant to dairy. Clause 32 deals with minimum wages, which is the lowest amount which can legally be paid to an employee. These minimum wage rates are reviewed each year by the Fair Work Commission. This is called the 'annual wage review'.

Usually, any changes to minimum wages start to apply from 1 July annually.

Subscribe to People Matters at thepeopleindairy.org.au/subscribe and ensure you receive regular wage updates via email.

Employers must ensure that copies of The Pastoral Award 2020 and the National Employment Standards are available to all employers covered by the award on a noticeboard which is conveniently located at or near the workplace or through electronic means, whichever makes them more accessible.

For the current version of the Pastoral Award 2020, visit thepeopleindairy.org.au/employment-rewards/pastoral-award-2020/



National employment standards

The National Employment Standards (NES) are minimum entitlements that apply to all employees. The NES entitlements include the right to receive certain information statements, the right to request flexible working arrangements, and a right to be paid superannuation contributions from your employer. Other NES entitlements are summarised in the table below. Rules and exclusions may apply. **Your award or agreement may provide more.** Find more information on the NES at fairwork.gov.au/NES

	Full-time and part-time employees	Casual employees
Annual leave	✓ 4 weeks paid leave per year (pro rata for part-time employees) + 1 week for eligible shift workers	✗ No entitlement to paid annual leave
Personal leave (Sick or carer's leave)	✓ 10 days paid leave per year (pro rata for part-time employees)	✗ No entitlement to paid personal leave
Carer's leave	✓ 2 days unpaid leave per permissible occasion (if no paid personal leave left)	✓ 2 days unpaid leave per permissible occasion
Compassionate leave	✓ 2 days paid leave per permissible occasion	✓ 2 days unpaid leave per permissible occasion
Family and domestic violence leave	✓ 10 days paid leave per year	✓ 10 days paid leave per year
Community service leave Jury service Voluntary emergency management activities	✓ 10 days paid leave with make-up pay + unpaid leave as required for jury service ✓ Unpaid leave to engage in other eligible community service (such as voluntary emergency management activities)	✓ Unpaid leave as required for jury service ✓ Unpaid leave to engage in other eligible community service (such as voluntary emergency management activities)
Long service leave	✓ May be entitled to long service leave under the NES, an enterprise agreement or under state or territory legislation. Amount and eligibility rules vary	✓ May be entitled to long service leave under the NES, an enterprise agreement or under state or territory legislation. Amount and eligibility rules vary
Parental leave Eligible after 12 months employment	✓ 12 months unpaid leave – can extend up to 24 months with employer's agreement	✓ 12 months unpaid leave for regular and systematic casuals – can extend up to 24 months with employer's agreement
Maximum hours of work	✓ Full-time employees – 38 hours per week + reasonable additional hours ✓ Part-time employees – 38 hours or employee's ordinary weekly hours (whichever is less) + reasonable additional hours	✓ 38 hours or employee's ordinary weekly hours (whichever is less) + reasonable additional hours
Public holidays	✓ A paid day off if you'd normally work. If asked to work you can refuse, if reasonable to do so	✓ An unpaid day off. If asked to work you can refuse, if reasonable to do so
Notice of termination	✓ 1-5 weeks notice (or pay instead of notice) based on length of employment and age	✗ No entitlement to notice of termination
Redundancy pay Eligible after 12 months employment	✓ 4-16 weeks pay based on length of employment (some exclusions apply)	✗ No entitlement to redundancy pay
Casual conversion	✗ Not applicable	✓ The right to become a full-time or part-time employee in some circumstances

Last updated: January 2024

For the full National Employment Standards section of the Fair Work Act, visit [Fair Work Act 2009 \(legislation.gov.au\)](http://Fair Work Act 2009 (legislation.gov.au))



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