



## Extending Probation Periods

A probation period is generally the first 6 months of an employee's employment with an employer. The purpose of probation is to evaluate an employee's suitability for the business and their new role, and to give both parties flexibility in determining if the relationship is the right fit.

Probation periods are written into an employment contract and start from day one of employment.

**Can I extend an employee's probation period?** The short answer is YES.

**Will I be protected from an Unfair Dismissal Claim if I decide to terminate the employee at the end of the extended probation period?** No.

### What does this all mean?

**Employers can extend an employee's probation period.**

However, they will not be protected from a claim in the Fair Work Commission for unfair dismissal. A probation period can be extended and managed from an internal operational perspective, but it does not provide the employer with protection for a future claim if at the end of the extended period the employee is terminated.

### What are my options if I'm undecided about an employee's future employment post the 6-month probation period?



From a best practice perspective, it's recommended that businesses have a **structured review process** during an employee's probationary period. A probation review process assists with addressing matters in a timely manner with the intention of rectifying prior to the matters escalating.



To eliminate the liability of an unfair dismissal claim, employers must make the decision of an employee's future employment prior to the probation period ending. If they do not do this, protection from an unfair dismissal claim will not be there.



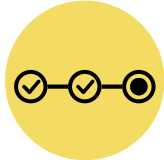
It's not recommended that employers extend a probation period unless they are a Small Business as defined by Fair Work. If a business is a 'small business' this means they have 14 or under employees and there are no associated entities. Small businesses have the protection of 12 months under legislation. It is only in these circumstances that an employer can extend a probationary period from the original 6 months.



If an employer makes the decision that extending probation is necessary, it should be documented that both parties agree to the extension, outlining the reasons for the decision and how the extension will be managed.

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### Contact Now Actually



To develop a suitable Probation Review Process for your business if you currently do not have a formal structure in place.



If you have an employee that you need support with addressing matters with them and you do not know how to go about this.



If you have an employee that is not the right person for your business or the role, and you need support with terminating the employee in the correct manner and associated documentation to support the termination.

Now Actually can help you with any of the above situations when it comes to probation periods.

**Contact Us**

