

Note: Delete this page and following pages (total 3 pages) once you complete tailoring the template for your own business

This policy can be used by all Australian employers to make clear to their employees what is expected in terms of their attendance at work, and what to do in the event they are likely to be absent from work.

An attendance and absentee policy is important for a number of reasons. It specifies what absences are unacceptable to the employer, as well as defining when an employee has resigned their employment because of their unexplained absence without notifying the employer of their intention. This is referred to as 'abandonment of employment'.

1. When does employee absence become absenteeism?

Absenteeism is a term usually referring to the chronic or continued failure of an employee to attend for duty, especially where conforming to a pattern suggesting either that the absence was avoidable or that it constituted behaviour lacking in appreciation of the work situation, or of the duty owing to the employer according to the employment contract.

Absenteeism is also conduct that may eventually result in the employee's dismissal or, where the employee cannot be contacted by the employer for a lengthy period of time, abandonment of employment by the employee.

2. What is abandonment of employment?

Abandonment usually arises in circumstances where an employee is absent from work without a reasonable excuse for an unreasonable period of time without having communicated to the employer any reason for the absence. For an employee to have abandoned their employment, it must be clear that the employee has clearly demonstrated an intention to no longer be bound by the terms of the contract of employment.

Example: An employee who had notified her employer that she would be able to attend work due to medical reasons, and was then terminated, was found to have been terminated at the initiative of the employer. An argument that the employee had abandoned her employment by not attending for work as directed was rejected. It was held the employer had terminated the employment. See *Sharpe v MCG Group Pty Ltd [2010] FWA 2357*.

Contact employee

In dealing with such cases, the employer should follow a number of steps. Firstly, attempt to contact the employee via telephone, mobile phone, email, work colleagues, etc. Secondly, if no contact has been made with the employee a letter by registered mail should be sent to the employee's home address appearing on the company's records asking the employee to contact the company as soon as possible. An employee's absence for one or two days could not be construed as abandonment. If the employee has made no attempt to contact the company as to continuing their employment, or the excuse for the absence is unsatisfactory, the employer must assume that the employee has abandoned their employment from the date the employee last attended for work.

Modern awards

Some modern awards contain a provision regarding abandonment of employment. This usually regards an absence of more than three consecutive working days without the employer's consent and no notification to the employer. A further 14-day period of absence without satisfying the

employer there is a reasonable cause would result in the employee being deemed to have abandoned his/her employment.

Getting it wrong

An attendance and absentee policy is protection for an employer in defending a claim for unfair dismissal or, in the case of a senior executive, wrongful dismissal or breach of contract.

In the case of unfair dismissal, an employer who presumes that an employee has resigned and then notifies the employee they are no longer employed by the employer may have inadvertently dismissed the employee under unfair dismissal law. This can result in reinstatement of the employee or compensation of up to 6 months' pay, with a maximum payout for non-award employees of \$69,450 (April 2017).

In the case of an **award free employee**, the employee could claim wrongful dismissal or breach of contract under common law **where the court can order unlimited damages**.

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General Information

In finalising this policy, you should have regard to any obligations in awards, enterprise agreements, employment contracts, other policies etc that apply to your business.

How to complete this template

Designed to be customised

It is completely customisable based on your specific requirements.

Include what you must and can comply with

This document should be used in conjunction with your contract of employment, and any specific company procedures and processes. Only include the commitments you are confident you can comply with, make sure you update and review the document regularly.

Important: You may have legal obligations to your employees under an employment or industrial agreement such as an award, workplace agreement or employment contract. Make absolutely certain what's written in this document is consistent with these. If you're unsure what covers your employees, ACFA Members can contact ACFA's workplace advice team on 1300 342 248 or on 02 4340 2000 for further advice/assistance.

To complete the template:

1. Using Word's Replace function, search for (INSERT COMPANY NAME) and replace with your company name.
2. Replace (items in brackets) with your own wording.
3. Once you have finished work on the template, delete the first TWO pages of the document.

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SAMPLE

Attendance and Absenteeism Policy

1. Purpose

- 1.1 This Policy sets out what is expected of (insert company name) employees in terms of their attendance at work, and what they are required to do if they are absent from work.

2. Commencement

- 2.1 This Policy will commence from XX/XX/XXXX. It replaces all other attendance and absenteeism policies of (insert company name) (whether written or not).

3. Application of the Policy

- 3.1 This Policy applies to employees of (insert company name). It does not form part of any employee's contract of employment.

4. Attendance

- 4.1 Regular attendance is essential to the efficient workflow and productivity of (insert company name). An employee not attending for duty as required will not be paid for such time as they are absent from the workplace, unless they are on authorised paid leave. (insert company name) may require the employee to make up any time lost due to an unauthorised non-attendance.

5. Absence

- 5.1 Employees must comply with any enterprise agreement or award that applies to their employment and deals with attendance or absence. They must also comply with any requirements set out in their contract of employment. This policy or any other (insert company name) policy concerning leave and absenteeism.
- 5.2 If an employee is absent for any reason, they must notify their supervisor or manager as soon as reasonably practicable, indicating the reason for the absence and extent of the anticipated absence. During absences extending more than one day, employees must contact their supervisor regularly to keep (insert company name) updated as to the circumstances of the employee's continuing absence. Where an employee finds that they cannot return to work as scheduled, they must notify their supervisor or manager as soon as possible.
- 5.3 Depending on the circumstances of the absence, the leave of absence may be approved, denied, paid or unpaid. Further, (insert company name) may require reasonable evidence (e.g. medical certificate or statutory declaration) to support the reason(s) for the absence. If such evidence is required, it must be supplied as soon as reasonably practicable.
- 5.4 Where an employee is absent for a reason specified in another (insert company name) policy (for example, personal leave, carer's leave, annual leave, parental leave etc), the employee must comply with any requirements set out in that policy.

6. Disciplinary action

- 6.1 Repeated late attendance or absence from work without a valid reason, proper notification or a failure to provide requested evidence to support the absence will be cause for disciplinary action, which may include termination of the employee's employment.

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