

---

# VPS Enterprise Agreement Common Policies

## PROBATION

---

### Table of contents

<b>Authority and Application</b>	<b>2</b>
<b>Overview</b>	<b>2</b>
<b>Relevant provisions of the VPS Enterprise Agreement</b>	<b>2</b>
Clause 15.4 Probationary Period – New Employee	2
<b>Supplementary Guidance Information</b>	<b>3</b>
1. Monitoring and assessing performance	3
2. Factors affecting the probationary period	3
3. Failure to provide written notification at the conclusion of the probationary period	4
4. Cessation of employment	4
5. Movement between departments or agencies covered by the VPS Agreement	4
Making decisions under this policy	4
Dispute resolution	4
<b>Further Information</b>	<b>5</b>
<b>Related policies or documents</b>	<b>5</b>

---

#### Authorised by Industrial Relations Victoria

Department of Economic Development, Jobs, Transport and Resources  
1 Spring Street Melbourne Victoria 3000  
Telephone (03) 9651 9999

© Copyright State of Victoria, 2018

If you print and store this document, you may be looking at an obsolete version.  
Always check the latest version of this document at  
<https://ypsc.vic.gov.au/vps-enterprise-agreement-common-policies/>

Probation I Version 1.0 | September 2018



---

## Authority and Application

Clause 15.4 of the Victorian Public Service Enterprise Agreement 2016 (the Agreement), applies to Victorian Public Service Departments and Agencies (Employers) and their Employees (other than casual Employees) covered by the Agreement.

## Overview

Clause 15.4 sets out the probationary period and the process for managing Victorian Public Service Employees during their probationary period.

## Relevant provisions of the VPS Enterprise Agreement

### Clause 15.4 Probationary Period – New Employee

- (a) The Employer may appoint an Employee or a former Employee who commences employment in the VPS on a probationary basis. A casual Employee cannot be appointed on a probationary basis.
- (b) The period of probation shall be a reasonable period having regard to the nature of the position but, subject to **clause 15.4(d)** shall be no more than three months.
- (c) A person initially employed in an Agency on a fixed term basis who is subsequently employed in that Agency on an ongoing basis shall have the fixed term employment taken into account in the determination of any probationary period.
- (d) **Performance during probation**
  - (i) If conduct or performance issues are identified during the probationary period, the Employer shall counsel the Employee during the probationary period in relation to his or her conduct or performance and shall provide a written record of such counselling to the Employee.
  - (ii) The probationary period may be extended by a period of not more than three months to allow the Employee to address performance issues.
  - (iii) The probationary period may also be extended by not more than three months if non-attendance at work limits the Employer's ability to properly assess an Employee.

**(e) Confirmation of employment**

Unless the employment is terminated earlier in accordance with **clause 15.4(f)**, at the end of the period of probation the Employer shall confirm the Employee's appointment in writing.

**(f) Termination of employment**

**(i)** A probationary Employee may resign at any time by giving a minimum of two weeks' written notice to the Employer, or a shorter period that is agreed with the Employer.

**(ii)** In the event that the Employee's conduct or performance during the probationary period is unsatisfactory, the Employer may terminate the probationary Employee's employment by giving two weeks' notice or two weeks' pay in lieu of notice.

**(iii)** For the avoidance of doubt, any notice period must be given no later than two weeks' prior to the end of the period of probation. Alternatively, the Employee's employment may be terminated by giving two weeks' pay in lieu of notice prior to the end of the probationary period.

**(iv)** A probationary Employee's employment may be terminated without notice or payment in lieu of notice if the Employee has committed any act of serious misconduct (as defined in regulation 1.07 of the *Fair Work Regulations 2009*).

## Supplementary Guidance Information

### 1. Monitoring and assessing performance

1.1. Employers should closely monitor the Employee's performance and provide regular opportunities for feedback. An Employer should meet regularly with a new Employee and provide the new Employee with specific feedback, and where required, highlight areas requiring improvement and provide support to address any performance concerns. Where conduct or performance issues are identified during the probationary period the Employer will counsel the Employee and provide a written record of such counselling to the Employee in accordance with clause 15.4(d)(i) of the Agreement.

### 2. Factors affecting the probationary period

2.1. Where a new Employee's non-attendance at work limits the Employer's ability to properly assess the new Employee, the Employer will determine whether there is a need for the new Employee to undertake a further probationary period of not more than three months.

### **3. Failure to provide written notification at the conclusion of the probationary period**

- 3.1. If the Employer fails to notify an Employee that their employment is to be confirmed in accordance with clause 15.4(e) of the Agreement, then by default, the Employee's employment is confirmed.

### **4. Cessation of employment**

- 4.1. When terminating the employment of a probationary employee, the whole of the period of the notice must fall within the probation period.
- 4.2. Where an Employer, wishes to terminate a probationary employee's employment within the final two weeks of the probation period, this can only be done by payment in lieu of notice so that employment does not extend beyond the probation period.

### **5. Movement between departments or agencies covered by the VPS Agreement**

- 5.1. Consistent with clause 15.4(a) of the Agreement, an Employee who successfully completes their probation period with a Department or Agency covered by the Agreement, is not required to complete a probationary period when they move to another Department or Agency covered by the Agreement, provided the service is continuous.
- 5.2. An Employee who breaks continuity of service by ceasing employment within the VPS and who is subsequently is re-employed by a Department or Agency covered by the Agreement at a future date, may be required to complete a probationary period on being re-employed by a Department or Agency covered by the Agreement.

## Making decisions under this policy

Under section 20(1) of the *Public Administration Act 2004*, the public service body head has all the rights, powers, authorities and duties of an employer, which will usually be delegated to staff within their Department or Agency. Employers should ensure that any actions under this policy are only taken by an employee with the delegation to do so. Each Department and Agency should give effect to this policy in accordance with its own delegations.

## Dispute resolution

An employee who is directly affected by a decision made or action taken pursuant to clause 15.4 may apply for a review of actions under the Employer's review of actions policy or seek to resolve a dispute through the Resolution of Disputes procedure at clause 12 of the Agreement.

---

## Further Information

Employees should refer to their Department or Agency's intranet for information on procedural requirements, systems and approval delegations.

For further information and advice please contact your local Human Resources or People and Culture Unit (or equivalent).

## Related policies or documents

### **VPS Enterprise Agreement Common Policies**

All policies in the VPS Enterprise Agreement Common Policies collection, can be found at <https://vpsc.vic.gov.au/vps-enterprise-agreement-common-policies/>