

FAMILY AND DOMESTIC VIOLENCE LEAVE

What is Family and Domestic Violence Leave?

From 1 August 2018 all employees (including casuals) covered by a modern award are entitled to 5 days of unpaid leave if experiencing Family and Domestic Violence. This leave is available to the employee in the event they need to handle the impact of domestic and family violence and they are unable to outside of work.

For example, to make arrangements for personal or family member safety (i.e. safe housing arrangements), to attend court hearings or access police services.

What does Family and Domestic Violence mean?

Family and domestic violence means:

Violent, threatening or other abusive behaviour by a family member of an employee that seeks to coerce or control the employee and that causes them harm or to be fearful.

Family member means:

- (i) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
- (ii) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee; or
- (iii) a person related to the employee according to Aboriginal or Torres Strait Islander kinship rules.

A reference to a spouse or de facto partner in the definition of family member in clause 41A.2(a) includes a former spouse or de facto partner.

Entitlement to unpaid leave

Five days if the employee is experiencing Family and Domestic violence or needing to deal with the impact of Family and Domestic Violence. This leave is available at the start of each 12 month period of employment and does not accrue progressively during the year of service. This means the five days will be available in full for full-time, part-time and casual employees upon the commencement of their service.

Notice and evidence requirements

Notice

An employee seeking to use their unpaid leave entitlement needs to provide the business with notice of taking the leave as soon as practicable (depending on the circumstances this may be after the leave has started). The employee also has an onus to advise the business of the expected length of the absence.

Evidence

An employee who has complied with the notice requirements must also give evidence that would satisfy a reasonable person that the leave is for the purpose of Family and Domestic Violence. Such evidence can include: a statutory declaration, a document issued by the police/court or a document issued by the family violence support service involved.

Confidentiality

Employers have an obligation to treat any documentation (including notice and evidence) and/or information provided by an employee for the purposes of this leave as confidential.

Frequently asked questions

Does this leave apply if the employee is not covered by a Modern Award?

Yes. From 12 November 2018 Family and Domestic violence leave was included in the National Employment Standards (NES), allowing all National Systems Employees to access 5 unpaid days of family and domestic violence leave.

Can the employee take personal leave whilst accessing Family and Domestic Violence Leave?

Yes. The employee will need to comply with the conditions of the National Employment Standards to access such leave. This would include notice and evidence requirements relevant for this entitlement and as guided by workplace policies and procedures.

Contacting the Victorian Chamber of Commerce and Industry

The Victorian Chamber's team of experienced workplace relations advisors can assist members with a range of employment, human resources and industrial relations issues.

Our experienced workplace relations consultants can also provide assistance to both members and non-members on a range of more complex matters for a fee-for-service. The consultants can, among other things, provide training to employees, conduct investigations and provide representation at proceedings at the Fair Work Commission.

For assistance or more information, please contact the Workplace Relations Advice Line on **(03) 8662 5222**.

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