

Operative date for employees covered by the NES:

1 Feb 2023 for non-small business employers & employees; 1 Aug 2023 for small business employers & employees.

For employees not covered by the NES:

At the ratification of the ILO's Violence and Harassment Convention, 2019.

Click [here](#) for full briefing notes

FAMILY & DOMESTIC VIOLENCE LEAVE

What is it, and what is new?

Family and domestic violence leave (FDV Leave) is leave taken by victim-survivors in connection with family and domestic violence. FDV Leave is unique amongst other forms of leave in terms of the range of absences from work that it can potentially cover.

The new entitlement is for ten days of leave for casual and permanent employees.

What are the key rights and requirements?

- » An employee will be able to take paid FDV leave:
 - If they are experiencing family and domestic violence; and
 - Need to do something to deal with the impact of that family and domestic violence; and
 - It is impractical for them to do that thing outside of their hours of work.
- » The quantum of 10 days leave is available from commencement and renews at every 12-month anniversary of service (however remaining leave from the year prior does not carry over).
- » The leave is paid at an employee's full rate of pay for the period the employee would have been otherwise working (including any overtime, casual loading, penalties, allowance or entitlements that would have otherwise been provided).
- » The entitlement is accessible to permanent and casual employees (and based on any work offered and agreed to for a casual).
- » Employees who take this leave must inform their employer as soon as practicable (this may be after the leave is taken) and, if requested, provide evidence that the task was related to FDV and could not occur outside of hours.
- » The Fair Work Act provides for privacy requirements regarding evidence, and the recording of the leave on pay slips.
- » If FDV leave provisions under an existing agreement is detrimental when compared to the new NES entitlements, applications can be made to the FWC to vary the agreement to make it consistent with the NES entitlement.
- » Review of the legislation must commence from 1 February 2024.

Strategic considerations

Coordinate:

- » How can unions collaborate on their submissions to the review of the entitlement?
- » How can we engage supportive employers to contribute to the review?

Growth:

- » This legislation provides for a broader definition of FDV, and broader circumstances where the leave can be applied. How to we coordinate to protect the highest standard of interpretation of these rights?
- » How do we ensure trauma informed approaches are maintained and privacy requirements under the entitlement are adhered to?

Precedent:

- » Many employees may be under agreements which do not yet have entitlements to FDV leave or have an inferior entitlement. How can we organise around updating agreements where FDV leave entitlements are non-existent or are below the NES?
- » We will need to use a trauma informed approach to assisting with the education and enforcement of this entitlement. How do we skill up workplace leaders to do this work?

**EQUIP
PLAN
WIN**

EQUIP

- **IR LAW FORUMS**
(7 - 19 Feb) - Respect, Equity,
Bargaining 1/2/3 and Electives
- **LEGISLATION
BRIEFING NOTES**
- **FACT SHEETS**

PLAN

- **STRATEGIC LEADERSHIP
MEETING (20 - 21 Feb)**
- **UNION INTERNAL
PLANNING**

WIN

- **MOVEMENT WIDE
EDUCATION**
- **COORDINATION**
- **GOOD PRECEDENTS**
- **GROWTH AND POWER**