**The Fair Work Amendment (Paid Family and Domestic Violence Leave) Act 2022**

Federal Parliament has passed the following Fair Work Amendment (Paid Family and Domestic Violence Leave) Act 2022.

[The Fair Work Amendment (Paid Family and Domestic Violence Leave) Act 2022](https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fd15k2d11r6t6rl.cloudfront.net%2Fpublic%2Fusers%2FIntegrators%2F2b76e103-1640-47d5-9f25-56cbbf5af487%2Fme_busvic%2FFair%2520Work%2520Amendment%2520%2528Paid%2520Family%2520and%2520Domestic%2520Violence%2520Leave%2529%2520Bill%25202022.pdf&data=05%7C01%7Cpkavanagh%40busvic.asn.au%7C3359f38a58e1477d5cf208dabc8beb08%7Ccb4f7c81f2944975a010247ee8dc73ec%7C0%7C0%7C638029606538368967%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=gFpegF2APfrASAYN2ZncZufuruRrqfMS%2FGZgKG79x%2FQ%3D&reserved=0)

It amends the Fair Work Act 2009 to replace the current entitlement in the National Employment Standards to five days of unpaid family and domestic violence leave in a 12-month period with an entitlement to ten days of paid family and domestic violence leave.

Key components of the legislation are:

* All employees (including casual and part time employees) will be entitled to 10 days of paid family and domestic violence leave “up front” per year.
* A replacement of the existing unpaid entitlement, by replacing the words “unpaid” with “paid” in Subdivision CA of Part 2-2 in the FW Act.
* An expanded definition of “family and domestic violence” to include conduct by “a member of an employee’s household” or “a current or former intimate partner of an employee,” rather than just a “close relative”.
* A rate of pay that is not only the employee’s base rate of pay, but the “employee’s full rate of pay, worked out as if the employee had not taken the period of leave”.
* Extend the entitlement to paid family and domestic violence leave to non-national system employees once the International Labour Organization Convention on Violence and Harassment (No. 190) comes into force for Australia. (i.e., 1 February 2025)

**Commencement?**

**Small business employee** is an employee of a small business employer – i.e., an employer that employsfewer than 15 people. ('15 people' refers to the number of individuals, not the full-time equivalent number.)

Employees other than small business employees

An employee, other than a small business employee, who is employed prior to 1 February 2023, and still employed on that date, will gain ten days of paid family and domestic violence leave from 1 February 2023. The entitlement to ten days of paid leave would then reset on the day of the anniversary of when an employee’s employment started. For example, an employee other than a small business employee who started employment with their employer on 11 October 2022 would gain ten days of paid family and domestic violence leave on 1 February 2023, and that entitlement would thereafter reset on 11 October each year of their employment with that employer. Additionally, employees who are not small business employees and who commence employment on or after 1 February 2023 will also have access to ten days paid family and domestic violence leave from the day they commence employment.

Small business employees

Small business employees will not gain the benefit of paid family and domestic violence leave until 1 August 2023.

A small business employee who is employed prior to 1 August 2023,  and still employed on that date, will gain the full benefit of the ten days of paid family and domestic violence leave from 1 August 2023, rather than having to wait until the anniversary of the start of their employment. The entitlement to ten days of paid leave would then reset on the day of the anniversary of when an employee’s employment started.  Additionally, employees who are small business employees and who commence employment on or after 1 August 2023 will also have access to ten days paid family and domestic violence leave from the day they commence employment.  (Between 1 February 2023 and 31 July 2023, small business employees will continue to be able to access the existing NES entitlement to five days unpaid family and domestic violence leave.)

**DOT and DET bus service contracts?**

We will contacting DOT and DET’s to have these new costs covered under relevant contracts. We will be in touch again when we have their response.