

# Family and Domestic Violence Leave – Interim Advice

Policy Number: 42/2023

Issued: February 2023

## Introduction/Purpose

1. Commencing 1 February 2023, ACT Public Sector (ACTPS) employees will observe changes to paid family and domestic violence leave. These changes reflect amendments made by the *Fair Work Amendment (Paid Family and Domestic Violence Leave) Act 2022* to the National Employment Standards (NES) captured under the *Fair Work Act 2009* (FW Act).
2. This advice should be read in conjunction with relevant ACTPS Enterprise Agreement and the [Family Violence Toolkit](#).
3. All ACTPS enterprise agreements are read and interpreted in conjunction with the NES. If there is inconsistency in the agreement and the NES, and the NES provides greater benefit, the NES provisions will apply to the extent of the inconsistency.
4. ACTPS employees are entitled to leave for family and domestic violence purposes under the applicable enterprise agreement; however, there are additional entitlements available under the new NES changes and these will now apply to ACTPS employees.
5. The new NES entitlements will be embedded in the new future enterprise agreements, but until these come into force, this advice will apply to the current available family and domestic leave entitlements.

## Procedure

6. Leave for family violence purposes is available to employees who are experiencing family violence to allow them to be absent from the workplace to attend counselling appointments, legal proceedings and other activities related to, and as a consequence of, family violence.

## Entitlements

### All Employees:

7. Leave for family violence purposes is non-cumulative.
8. Leave for family violence purposes may be taken as consecutive or single days, or as part days.

### Full-time and Part-time employees

9. In accordance with ACTPS Enterprise Agreements, Full-time and part-time employees experiencing family violence have access up to a maximum of 20 days or shifts per calendar year paid leave, subject to the provision of appropriate evidence.

### Casual employees

10. The ACTPS Enterprise Agreements currently provide casual employees leave without pay for the purposes of Family and Domestic Violence Leave. However, as of 1 February the NES entitlements were amended to provide casual employees with access up to a maximum of 10 days or shifts per calendar year paid leave for the purposes of Family and Domestic Violence, subject to the provision of appropriate evidence.

## Rate of payment:

### All Employees:

11. All employees entitled to paid family and domestic violence leave will receive their full rate of pay (base rate) as well as any allowances, penalties, or loadings.

## Full-time and Part-time employees

12. For an employee other than a casual employee, the rate of payment for paid family and domestic violence leave will be the employee's full rate of pay, worked out as if the employee had not taken the period of leave.

## Causal employees

13. For a casual employee, the rate of payment for family and domestic violence leave is the employee's full rate of pay, worked out as if the employee had worked the hours in the period for which the employee was rostered or expected to be rostered.
14. If a casual employee accesses family and domestic violence leave on a day that they were not rostered or expected to be rostered to work, the leave will be without pay.

## References

15. The relevant legislation, policy and employment arrangements underlying this operational guidance are:
  - a. *Fair Work Act 2009*
  - b. ACTPS Enterprise Agreements
  - c. Family Violence Tool Kit

## Further Information

16. Please direct any queries relating to this interim advice to the inbox: [eba@act.gov.au](mailto:eba@act.gov.au).

## Review

17. This advice remains in effect until relevant enterprise agreements can be amended to reflect the new *Fair Work Act 2009* amendments.

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## Approval Authority

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Chief Minister, Treasury and Economic Development Directorate  
On behalf of the Head of Service  
31 January 2023