



Changes to state employment laws in WA

New unpaid family and domestic violence leave entitlement

A minimum entitlement to five days' unpaid family and domestic violence leave is being introduced for all employees in the state industrial relations system.

This new minimum entitlement will be included in the *Minimum Conditions of Employment Act 1993* (MCE Act) by the *Industrial Relations Legislation Amendment Act 2021* and will commence early in 2022.

The family and domestic violence leave provisions will apply to all employees in the state industrial relations system including employees who are covered by WA awards and industrial agreements, and employees who are award free.

An employee will be able to take unpaid family and domestic violence leave if:

- the employee is experiencing family and domestic violence; and
- the employee needs to do something to deal with the impact of the family and domestic violence; and
- it is impractical for the employee to do that thing outside the employee's ordinary hours of work.

Family and domestic violence means family violence as defined in the *Restraining Orders Act 1997*.

Full time, part time and casual employees will be entitled to five days' unpaid family and domestic violence leave in each 12 month period. The five days' leave will be available in full to part-time and casual employees i.e. it is not pro rata. Nothing prevents the employee and the employer agreeing that the employee may take more than five days of unpaid leave to deal with the impact of family and domestic violence.

Unpaid family and domestic violence leave will be available in full at the start of each 12 month period of the employee's employment; and does not accumulate from year to year.

State employment laws are changing

This fact sheet is part of a suite of information on the changes to state employment laws that will commence early in 2022. For details on the changes visit www.dmirs.wa.gov.au/new-employment-laws.

Taking unpaid family and domestic violence leave

An employee will be able to take unpaid family and domestic violence leave as:

- a single continuous five day period;
- separate periods of one or more days each; or
- in any separate periods to which the employee and the employer agree, including periods of less than one day.

If required by the employer, an employee who claims to be entitled to unpaid family and domestic violence leave under the MCE Act would need to provide evidence that would satisfy a reasonable person of the entitlement. This could be a document issued by:

- a police service;
- a court of family violence support service;
- a medical practitioner;
- a legal service;
- a counsellor;
- a refuge service; or
- a financial institution.

It could also be a statutory declaration.

Confidentiality

Employers will need to take steps to ensure information concerning any notice or evidence an employee has given of the employee taking unpaid family and domestic violence leave is treated confidentially, as far as it is reasonably practicable to do so.

Nothing will prevent an employer from disclosing information provided by an employee if the disclosure is required by a written law or is necessary to protect the life, health or safety of the employee or another person.

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