

BULLETIN

Industrial Relations Department



Reference No: FAMILY AND DOMESTIC VIOLENCE LEAVE (AWARD FREE EMPLOYEES)

Date issued: 7/12/2018

Family and Domestic Violence Leave (Award Free Employees)

The Parliament passed the Fair Work Amendment (Domestic and Family Violence Leave) Bill 2018 which will form part of the National Employment Standards (NES). **Awards have already been amended to provide employees with the five unpaid days Family and Domestic Violence Leave effective from 1 August 2018.**

The Leave will apply from when the Act comes into operation.

The leave provides that: employees will have access to five days of unpaid family and domestic violence leave in each one-year period (it will not accrue from year to year, unlike annual leave or personal leave).

- a. The entitlement applies to all forms of employment, including casual employees;
- b. the entitlement will be available in full at the commencement of each one-year period;
- c. all employees will have five days' unpaid leave per year regardless of hours worked;
- d. employees can access less than a day's leave and additional leave by agreement with their employer.

Employers need to be aware that:

- a. they are under an obligation to keep confidential information concerning any notice an employee has given or evidence they have provided regarding the taking of family and domestic violence leave, as far as is reasonably practicable. The NES provides two exceptions to this where an employer is required to disclose by Australian law and where it is necessary to protect the life, health or safety of the employee or another person;
- b. civil penalties of up to \$64,000 can now be imposed for a contravention of the new family and domestic violence leave provision in the NES; and
- c. taking any action which may be seen as prejudicial action because of an employee accessing or proposing to access the entitlement could potentially give rise to a General Protections risk under the *Fair Work Act 2009* (Cth).

If you need further advice call the VACC IR Department on 03 9829 1123.