

Domestic Violence – Victims' Protection Bill

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The [Domestic Violence – Victims' Protection Bill](#) (the Bill) has taken a step forward. It now needs only to pass its third reading (likely to occur at the end of July 2018). If it passes, the Bill will come into effect from 1 April 2019.

The Bill amends the Holidays Act 2003, the Employment Relations Act 2000 and the Human Rights Act 1993. If it becomes law, employers will be required to provide employees "affected by domestic violence" with domestic violence leave to assist them to deal with the effects of domestic violence. The Bill also expands the availability of flexible working arrangements generally and creates new short-term flexible working arrangements for employees affected by domestic violence. It also makes it unlawful to treat a person adversely in employment on the ground they are, or are suspected or assumed or believed to be, a person affected by domestic violence.

Entitlement to 10 days' domestic violence leave

The Bill creates a new category of leave under the Holidays Act 2003 that is separate from annual holidays and sick leave entitlements.

It allows employees to take up to 10 days' domestic violence leave per year to deal with the effects of domestic violence. Employees need six months' continuous employment to be entitled to this leave. The entitlement does not accrue from year to year. Employees are not required to provide proof they have been affected by domestic violence, but an employer may require proof prior to agreeing to the request. If an employee fails, without reasonable excuse, to provide proof, an employer will not be required to pay for any domestic violence leave.

Given the broad purpose of the Bill, we expect that domestic violence leave could be used for a range of reasons, and employers will need to be open minded when dealing with any request. Domestic violence is [defined broadly](#), and includes physical, sexual and psychological abuse, including harassment, threats, intimidation and financial abuse.

Flexible working arrangements

The Bill also provides for flexible working arrangements for employees affected by domestic violence. It allows affected employees to request additional types of flexibility than otherwise available, including changes to:

- The location of their workplace
- Their duties at work
- The extent of contact details the employee must provide to their employer
- Any other term of employment that needs variation to enable the employee to deal with the effects of domestic violence.

In addition, short term flexible working arrangements (two months or shorter) will be available for employees affected by domestic violence. Under the new Part 6AB of the Employment Relations Act 2000, employees affected by domestic violence will be able to make a request for short-term changes to their working arrangements. Employers must deal with a request within 10 working days.

As with domestic violence leave, employers can require proof that the employee has been affected. However, they may only require proof if they inform the employee of the requirement within three working days after receiving the request for flexible working arrangements.

The grounds to refuse a request for flexible working arrangements (either short term or longer term) are the same as those that currently exist in the Act. However, an employer will not be able to rely on inconsistency with a collective agreement as a ground to refuse a request for short-term changes.

Adverse treatment in employment

Employees will have personal grievance or a claim under the Human Rights Act 1993 if they have been treated adversely in employment on the grounds that they are, or are suspected or assumed or believed to be, a person affected by domestic

violence.

Comment

The Bill intends to increase employment protections and support individuals affected by domestic violence to stay in paid work. Employers do not need to introduce new policies or incorporate any of the legislative requirements into employment agreements. However, organisations will need to consider how they will practically deal with requests for domestic violence leave or flexible working due to domestic violence. Organisations will need to be particularly mindful of protecting and preserving the privacy, trust and confidence of their employees.

The new entitlements are available to employees personally affected by domestic violence and also to employees caring for children who have been affected by domestic violence. The entitlements also apply regardless of how long ago the domestic violence occurred, even if the violence occurred before the person became an employee.

If you have any queries or concerns about how this Bill will affect your organisation, please contact a member of our team.

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