



SDA SUBMISSION TO INDEPENDENT STATUTORY REVIEW OF THE Fair Work Amendment (Paid Family and Domestic Violence Leave) Act 2022 (Cth)

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About the SDA



The Shop, Distributive and Allied Employees' Association (the SDA) is one of Australia's largest trade unions with over 200,000 members. Our members work in retail, warehousing, fast food, hairdressing, beauty, pharmacy, online retailing, and modelling.

The majority of SDA members are women (60%), under 35 years (57%), and low-income. Retail and food services are two of the three lowest industries for median weekly earnings.

The SDA has a long history of advocating on behalf of members. We do this through enterprise bargaining; making submissions regarding Awards and the NES to provide a relevant safety net; and through numerous submissions made to parliamentary and government inquiries and other important reviews.

The SDA has 10 policy principles that guide our engagement in these reviews. For a list of these, see Appendix A.



SDA submission to independent statutory review of the Fair Work Amendment (Paid Family and Domestic Violence Leave) Act 2022 (Cth)

Executive Summary

When debated, the legislated Paid Family and Domestic Violence Leave (FDV Leave) was argued, on the one hand, as unlikely to be used by those experiencing family violence as they would not be prepared to tell their employers about it. On the other hand, it was viewed as likely to cost too much.

Now that the scheme has been operating in non-small businesses for over a year, the SDA can categorically say that the leave is being used by those for whom it was intended and is not the significant impost on business that was suggested. For further successful implementation of the scheme – which is designed to provide financial and employment security through time off, including for attending court hearings or looking for a safe home to relocate children – there is a need for better communication of the option and consideration of how the leave applies to those industries where rostering impacts family life.

FDVL is being used by those who need it.

One branch of the SDA has seen a 434% increase in members raising matters of family and domestic violence since 2020-2021 to date in 2023-2024. There may be a range of factors influencing this figure, including public awareness, the introduction of the form of leave and the action of the union to support workers experiencing family and domestic violence - but the law that the leave be available remains pertinent.

To give the review a flavour of these matters the SDA provides the following edited extracts from our case files.

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Extract from case files:



The SDA also provides the following case studies to show that FDV Leave is being sought and given to those who need it.

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Case Study 1:

Case Study 2:

Those who need FDV Leave need managers to be educated

The SDA notes the recommendation of the ACTU on page 3 of its submission to the Senate Employment Committee inquiry into the Fair Work Amendment (Paid Family and Domestic Violence) Bill 2022, which highlighted the need for an “education and awareness raising campaign developed and rolled out in partnership with employer organisations and unions, to ensure effective implementation of the entitlement.”

There remains need for site, store and corporate management of companies, as well as the workers and the community, to understand that the provision is available and how to handle the situation to avoid unfair treatment at work compounding the impact of family and domestic violence.

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Case Study 3:

Case Study 4:

Case Study 5:

The drafting of the provision for FDV Leave needs to be reconsidered to accommodate the reality of rostering.

While employees are protected from adverse action because they’re experiencing (or have experienced) family and domestic violence, there are cases where this is occurring due to the

nature of work in rostered environments. While the entitlement is available to full-time, part-time and casual employees, those who are casual or part-time are changing (or their employer is changing) their roster which reduces the benefit of the leave for those workers. Part time and casual workers are in effect losing their entitlement to FDV leave because their roster gets reshuffled if they are part time or if they are casual their day gets listed as not available, known as 'N/Aing'.

There are many ways to overcome the difficulties associated with how to access a paid leave entitlement when you have irregular or unpredictable hours of work. One example is an agreement with The Reject Shop. The Reject Shop Agreement 2023 [AE522483], clause 36, appendix 4, par 4.8(a)(i) B provides "Casuals who take FDVL on a day they are not rostered to work, will be paid for 5 hours for the day at ordinary rates of pay (exclusive of penalties)." There may be other Agreements which use a similar approach but have adopted an averaging mechanism to calculate the average shift for the purpose of a payment to casuals.

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Case Study 5:

Case Study 6:

Concluding remarks

The SDA is a affiliate of the ACTU and is working with it on its submission.

Appendix A: Principles underpinning SDA policy positions

SDA policy is driven by providing value to our members whose work is regulated by an industrial system that has been reformed, but had failed them for decades.

Australians need to be supported by an economic system that has working people at its centre. Our predecessors built an industrial system which provided the foundations for shared prosperity. It is now our responsibility to utilise the reformed industrial framework for the current and future generations. Decades of concerted attacks on our industrial relations system saw inequality grow, and economic and political power has further concentrated in the hands of a few.

The world of work has changed and will keep changing. There is an unprecedented intersection between work and care. Income and gender inequality have combined to increase disadvantage. Predictable, secure hours of work that provide a living wage are at the centre of decent work. But there has been growth in insecure work, digitalisation is now a matter of course, safety concerns have persisted, and automated, digital and generative technologies must be shaped to enhance, not undermine, decent work.

We believe that fundamental not incremental change is needed. In contributing to policy, we seek to drive a new system that acknowledges the change that has occurred and will be fit for purpose in the emerging world of work.

The SDA engages in topics that help drive this agenda and we are guided by ten principles that we believe will create value for our members.

Those principles are:

1. Address Inequality & Enshrine Fairness

Minimum expectations must be set and adhered to.

2. Equity & Empowerment

All workers must be supported to progress so that no-one is left behind.

3. Mobility & Security

A socially successful economy must provide opportunity for all, regardless of their background. Systems must be built in a way that support success and adaptation in a rapidly changing world of work.

4. Delivering Prosperity & Growth For All

A foundation for prosperity and economic growth must be achieved.

5. Protection in Work & Beyond

Workplaces and the community must be healthy and safe for all workers and their families during and beyond their working lives.

6. Workers Capital & Superannuation

Workers capital and superannuation must be an industrial right for all workers and treated as deferred earnings designed for dignity and justice in retirement.

7. A Strong Independent Umpire

A strong, independent, cost effective and accessible industrial umpire and regulator must be central to the future system of work in Australia.

8. Protection & Support for Our Future

Protecting and supporting our future requires a strong and vibrant retail industry and supply chain providing decent work and jobs with fair and just remuneration and contributing to the economy including through skilled workers.

9. Work & Community

Work is a fundamental human activity that provides for personal, social and economic development. Work as it operates in community must build and protect a balance between life at work and life so that workers can contribute to society through the wider community.

10. Institutional Support for Collective Agents

Institutional support must provide for collective agents (registered organisations) in all industries so that they are recognised, enshrined and explicitly supported as central to the effective functioning of the system.

Details of specific policy positions can be discussed by contacting the SDA National Office.

