

Fair Work Amendment (Paid Family and Domestic Violence Leave) Regulations 2023

I, General the Honourable David Hurley AC DSC (Retd), Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 3 February 2023

David Hurley

Governor‑General

By His Excellency’s Command

Tony Burke

Minister for Employment and Workplace Relations

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1 Name

 This instrument is the *Fair Work Amendment (Paid Family and Domestic Violence Leave) Regulations 2023*.

2 Commencement

 (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | The day after this instrument is registered. | 4 February 2023 |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

 (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

 This instrument is made under the *Fair Work Act 2009*.

4 Schedules

 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Fair Work Regulations 2009

1 Division 3 of Part 3‑6 (at the end of the last paragraph of the note to the Division heading)

Add “Pay slips must also comply with the requirements for reporting paid family and domestic violence leave set out in regulation 3.48.”.

2 Regulation 3.47 (heading)

After “**information**”, insert “**about paid family and domestic violence leave**”.

3 Regulation 3.47 (note)

Repeal the note.

4 After regulation 3.47

Insert:

3.48 Pay slips—requirements for reporting paid family and domestic violence leave

 (1) This regulation is made for the purposes of paragraph 536(2)(d) of the Act.

 (2) Subject to subregulation (3), an amount paid to an employee for taking a period of paid family and domestic violence leave:

 (a) must not be reported on a pay slip as an amount paid to the employee for taking a period of leave; and

 (b) must instead be reported on the pay slip as an amount paid to the employee:

 (i) for the performance of the employee’s ordinary hours of work; or

 (ii) as another kind of payment made in relation to the performance of the employee’s work, including (but not limited to) an allowance, bonus or a payment of overtime.

 (3) If the employee has requested the employer to report the amount on the pay slip as an amount paid for taking a period of a particular kind of leave (other than a period of paid family and domestic violence leave), the amount may be reported on the pay slip as an amount paid to the employee for taking a period of that kind of leave.

Note 1: A pay slip is not false or misleading merely because it complies with this regulation: see subsection 536(3A) of the Act.

Note 2: During the grace period of 4 months, this regulation is subject to regulation 7.06.

5 In the appropriate position in Chapter 7

Insert:

Part 7‑4—Amendments made by the Fair Work Amendment (Paid Family and Domestic Violence Leave) Regulations 2023

7.04 Definitions for this Part

 In this Part:

***amending instrument*** means the *Fair Work Amendment (Paid Family and Domestic Violence Leave) Regulations 2023*.

***commencement day*** means the day on which the amending instrument commences.

***grace period*** means the period of 4 months beginning on the commencement day.

7.05 Application of amendments

 The amendments made by Schedule 1 to theamending instrument apply in relation to pay slips given to employees on or after the commencement day.

7.06 Requirements during grace period

 For the purposes of paragraph 536(2)(d) of the Act, and despite regulation 3.48, an amount paid to an employee for taking a period of paid family and domestic violence leave may, during the grace period, be reported on a pay slip as an amount paid to the employee for taking a period of leave (other than a period of paid family and domestic violence leave).