

SUBMISSION TO PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE BY SHOP, DISTRIBUTIVE
AND ALLIED EMPLOYEES' ASSOCIATION (THE SDA)

The SDA has been invited to participate in the Inquiry into the Victorian Government's Response to the COVID-19 Pandemic and makes this submission to assist the Public Accounts and Estimates Committee.

Background

The retail industry was affected in different ways by the COVID-19 pandemic.

On the one hand there were supermarkets and other parts of the retail industry which are essential services. They were marked by panic buying, a significant increase in business, a significant increase in customer abuse and violence and the need for sufficient numbers of staff to turn up to work each day at risk to their own health to serve the community.

For perhaps the first time it is widely recognized that supermarket workers and a number of other retail workers are essential service workers together with workers in the supply chain to the retail industry.

The issues in this part of the industry included

- Health and safety issues
- Customer abuse and violence
- The need for special paid leave
- A recognition payment for these essential service workers

The SDA developed a 10 point health and safety plan for the retail industry (see attached). These proposals have been largely adopted by a number of the major retail companies.

The SDA also reached agreement with the Australian Retailers Association on a range of health and safety measures (see attached).

The SDA has continued pursuing our No One Deserves A Serve campaign. We are pleased that WorkSafe Victoria has also launched a campaign against customer abuse and violence in the retail industry.

The SDA supports the insertion in the National Employment Standards of a provision for paid COVID-19 leave. However, in the absence of such an NES provision we have campaigned for companies to provide additional paid leave. We are pleased that a number of major retailers have taken some steps in that direction.

The SDA also believes that essential service workers should receive a recognition payment for all the extra stress, pressure and risk associated with their work. A number of companies such as Costco, Woolworths and Coles have agreed to some recognition payment.

That is one part of the retail industry.

On the other hand, large parts of the retail industry shut down, not because of the Government direction, but because of the decline of business with very few customers entering their stores.

The SDA was extremely concerned to protect jobs and to protect income.

We put aside our differences with the Australian Retailers Association and reached agreement on an Australian Retail Industry Rescue Package. We wanted the businesses to survive and the jobs to survive and we wanted to protect people's income.

Although it is not in the form that we proposed, we support the Federal Government's JobKeeper Payment Scheme to protect jobs and incomes in this part of the retail industry.

We recognize that there are also steps the Victorian Government took such as payroll tax relief and land tax relief which will also assist business to retain jobs.

The fast food industry has faced similar, although not identical issues, to the retail industry. It has been subject to Government direction to close the restaurant side of the business. Fast food companies face the situation that some outlets have closed (e.g. in shopping centre food courts) whilst other outlets are extremely busy. So within the one business there can be significantly different outcomes in different outlets.

The SDA has also developed a 10-point health and safety plan for the fast food industry (see attached).

Issues Already Addressed

We are pleased that a number of issues have been addressed including

- JobKeeper

- Payroll tax concessions

- Land tax concessions

- WorkSafe customer abuse advertising

Issues To Be Addressed

There are a number of issues yet to be addressed.

Paid COVID-19 Leave

The Federal Government should insert special paid COVID-19 leave into the National Employment Standards.

Coughing or Spitting on Workers

A number of jurisdictions have made it an offence to deliberately cough or spit on a public official or a worker.

NSW has made the Public Health (COVID-19 Spitting and Coughing) Amendment Order 2020.

Queensland has made the Protecting Public Officials and Workers (Spitting, Coughing and Sneezing) Direction.

NT has passed the Public and Environmental Health Legislation Amendment Act 2020.

In both NSW and Queensland, it explicitly covers retail workers.

The SDA believes Victoria should also act on this matter, preferably by a direction of the Chief Health Officer.

This is not a theoretical issue. This is one that SDA members in Victoria have faced. One example is a member in a supermarket who was approached by an aggravated customer who threw a punch at him, then said "I have Covid virus" and spat on him. The member went to hospital and was advised to self-isolate from family and the public. Fortunately, his test was negative. The police took a statement from him.

We have written to the Premier and the Chief Health Officer on this matter.

It has been suggested that this is already covered by existing more general legislation. However, Governments of different political persuasions around Australia have felt the need to make a strong public statement that this sort of behavior towards public officials or workers will not be tolerated. Victoria should do so as well.

Shopping Centre Health and Safety

Another issue to be addressed is returning to work.

It is apparent that in the last two weeks there are considerably more people in shopping centres. Whilst retailers generally seem to be applying health and safety measures in their stores, outside the stores there seems to be some deficiencies in health and safety measures.

The SDA has developed a 10-point health and safety plan for shopping centres (see attached).

It's key focus is on social distancing, particularly limiting the number of customers in the centres, and a rigorous cleaning regime.

It is important that the State Government sees that the issue of health and safety in shopping centres is addressed if they are not to become a source of new COVID-19 infections.

Long Service Leave

The third area which needs to be addressed is long service leave. Amendments need to be made to the Long Service Leave Act arising from the COVID-19 pandemic.

The current provisions of the Act do not adequately provide for continuity of employment in two circumstances.

Firstly, casual or seasonal employees may not be offered work by their employer for a period in excess of 12 weeks.

In order to protect their continuity of employment Section 12 (3) would need an addition to the effect that if a casual or seasonal employee is not offered work by their employer as a direct or indirect result of the COVID 19 pandemic their employment is taken to be continuous.

Secondly, some employees have already had their employment terminated or resigned but may be re-employed by their employer after a period in excess of 12 weeks.

In order to protect their continuity of employment Section 12 (6) would need an addition to the effect that if an employee's employment is terminated or they resign on or after 11 March 2020 as a direct or indirect result of the COVID 19 pandemic and they are re-employed on or before 30 September 2020 (or a later date prescribed by regulation) their employment is taken to be continuous despite the absence from work.

The other issue is the matter of accrual of long service leave. The NSW Government is proceeding with legislation to ensure that workers stood down as a direct or indirect result of the COVID 19 pandemic will continue to accrue long service leave whilst stood down.

The Victorian Act does not currently provide for that.

In the extraordinary circumstances of the COVID 19 pandemic we believe the Victorian Government should also ensure continuing accrual of long service leave during this time.

Section 13 should be amended to the effect that the period of absence of an employee stood down, not offered work or whose employment was terminated or resigned on or after 11 March 2020 and was re-employed on or before 30 September 2020 (or a later date prescribed by regulation) as a direct or indirect result of the COVID 19 pandemic is to be taken into account when calculating the length of a period of continuous employment.

We have written to the Premier on the long service leave matters and await an outcome.

Conclusion

The SDA thanks the Public Accounts and Estimates Committee for the opportunity to participate in the inquiry and we encourage the Victorian Parliament to address the three areas of concern which have been covered in this submission.