

OPT OUT NOTICE TO CURRENT AND FORMER MCDONALD'S WORKERS ISSUED BY ORDER OF THE FEDERAL COURT OF AUSTRALIA

You are receiving this notice because you might be a group member in a class action run in the Federal Court on behalf of current and former McDonald's workers seeking money compensation.

You have a choice about whether or not to opt out of the class action. You **must make this decision by 19 February 2024**.

[Click here to view this notice in video form](#)

What cases are being run?

A class action is being run against McDonald's on behalf of some people who used to work there. These people are called **group members**.

The class action seeks money for workers who worked a shift of four hours or more and didn't get a ten minute break.

A union, the SDA, is also running several cases about the same issue.

McDonald's and the franchisees are defending the cases.

Am I a group member?

You might be a group member if you did not get a 10 minute break on shifts of four hours or more.

More details about group membership are given on the [next page](#).

If you are not sure whether you are a group member, contact the **independent solicitor (appointed by the Court)** on the details below **before** making your decision.

What are the differences between the class action and SDA Actions?

The differences are summarised at the link [here](#). You should consider these differences carefully - they might affect the amount of money compensation you get.

What are my options?

Option 1 - Do nothing and stay in the class action.

Option 2 – Opt out of the class action.

Each option is summarised below.

How do I opt out?

Follow this [link](#) to the Opt-Out Form and submit it to the Court-appointed independent solicitor (contact details to the right).

I've got questions...

The Court has appointed an independent solicitor to answer questions. You can contact **Phi Finney McDonald** at (03) 9134 7100 or via mcdonaldsclassaction@phifinneymcdonald.com.

The independent solicitor can answer questions but cannot give legal advice.

OPTION 1:

Do nothing and stay in the class action

If you are a group member and you do nothing then your compensation claim will be dealt with in the class action and not the SDA Actions. This means that:

- if the class action succeeds, you will be eligible for money compensation;
- if you are awarded compensation, it is likely that the Court will order you to pay **part of it** towards lawyers' fees and a funding commission;
- if the class action fails against McDonald's, but the SDA Actions succeed against the franchisees, you may be able to recover compensation in the SDA Actions from the franchisees;
- any settlement of the class action does not need your consent but it does need to be approved by the Court.

What about registration?

If you choose to do nothing then you should also consider registering with the class action. This is voluntary but it will help ensure that you get future communications about the class action. You can register at the Shine Lawyers website <https://shine.com.au/mcdonalds>.

OPTION 2:

Opt out of the class action

If you opt out of the class action, you will not be covered by the class action but you are likely to be covered by the SDA Actions. In that case:

- if the SDA Actions succeed you will be eligible for money compensation;
- if you are awarded money compensation, you will receive 100% of the amount awarded;
- you will not have to pay a share of your compensation towards legal fees or funding commissions
- if the SDA Actions fail, you will not receive any compensation, even if the class action succeeds; and
- the SDA does not need court approval to settle your claim nor does it need your consent, but the SDA will inform the Court of the terms of any settlement.

What about registration?

If you opt out of the class action and are covered by the SDA Actions, you can register if you want to. This is voluntary but it will help ensure that you get future communications about the SDA Actions. You can register at the SDA website <https://national.sda.com.au/maccas>.

Differences between the class action and the SDA actions

	The Class Action	The SDA Actions
Who is running the claim?	The solicitors are Shine Lawyers. A litigation funder called Court House Capital (CHC) is paying the legal costs of the Class Action.	The SDA's solicitors are Lieschke & Weatherill Lawyers. The SDA is paying the costs of its cases.
Who is a group member?	You might be a group member if you work or used to work at a McDonald's store and did not get a paid 10 minute break on shifts of four hours or more. You are not a group member if: (a) you are named as a person on whose behalf the SDA is seeking money compensation in a different proceeding; or (b) you were a financial member of the SDA at any time you were working at a McDonald's store during the period 11 August 2016 to 17 November 2023, unless you: i. joined the Retail and Fast Food Workers' Union; or ii. have by 5 December 2023 registered with Shine to be part of the class action. If you are not sure whether you are a group member, contact the independent solicitor (appointed by the Court) on the details above before making your decision.	
What do the cases seek?	The class action and the SDA Actions both seek: 1. findings that McDonald's and relevant franchisees breached their legal obligations; and 2. money compensation. The cases also ask the Court to order that McDonald's and the franchisees pay penalties. Penalties are like a fine. The penalty claims are being dealt with in the SDA Actions. The Court might order that a share of the penalties are paid to you. Whether you are in the class action or the SDA Actions, any share of the penalties that you get will be the same.	
Who is being sued?	McDonald's and one franchisee, but this might change after the initial trial.	McDonald's and some of its franchisees.
Is the claim being defended?	Yes, all the claims are being defended. In the SDA Actions, an additional defence has been raised that alleges that the SDA effectively agreed with the franchisees' approach and should not now be allowed to claim compensation for a practice with which the SDA agreed. If that defence succeeds, the SDA might not be able to recover compensation on your behalf. This issue does not apply to the Class Action.	
Who will any compensation go to?	If the actions recover compensation (from a judgment or a settlement) then it will be paid to the affected workers. However, in the class action, some of your compensation would be used to pay legal costs and a funding commission.	
How much do I have to pay?	There are no out-of-pocket or up-front costs in the class action. If the class action is unsuccessful, you won't have to pay anything. If you receive compensation, then the Court is likely to order that some of the money be deducted and used to pay a share of the legal costs and the litigation funder's commission. You can assume that commission rate will be about 18% of the total sum payable to group members. The Court will decide the final percentage and what legal costs are reasonable.	You will not pay anything in the SDA Actions. The SDA is paying all the costs of the SDA Actions, whether they are successful or not. You will not be asked to give up a share of your compensation to fund legal fees or a litigation funding commission.
What happens in the event of a pre-trial settlement?	The settlement needs to be approved by the Court, including the legal costs and deductions.	The settlement does not need to be approved by the Court, but the SDA will inform the court of the terms of any settlement and how the settlement funds will be distributed.
What happens if only one claim succeeds?	If the claims against McDonald's do not succeed but the claims against the franchisees do, the class action may seek to continue against the franchisees alone.	If the claims against McDonald's do not succeed but the claims against the franchisees do, the SDA Actions will continue against the franchisees.
What period of time is covered?	<ul style="list-style-type: none"> McDonald's stores - 7 December 2015 to 27 May 2022 Franchise stores - 28 May 2016 to 27 May 2022 	11 August 2016 – 10 August 2022.