

## A Summary of Leave of Absence Options

*The Employment Standards Code* provides a number of leaves of absence to allow employees time to deal with certain events in their lives without risking the loss of their job.

### What leaves are available to employees?

There are 14 leaves employees may take without fear of losing their job. They are:

- Maternity Leave
- Parental Leave
- Family Leave
- Bereavement Leave
  - ◆ Unpaid Leave for death of a family member
  - ◆ Unpaid Leave for loss of a pregnancy
- Compassionate Care Leave
- Long-Term Leave for Serious Injury or Illness
- Interpersonal Violence Leave
- Citizenship Leave
- Leave Related to Critical Illness
- Leave Related to Death or Disappearance of a Child
- Reservist Leave
- Leave for Organ Donation
- Public Health Emergency Leave
- COVID-19 Vaccination Leave

### Who is eligible for the leave and how to qualify?

All employees are eligible if they meet the qualifying period of employment for the leave.

Each leave has various lengths of time an employee must be employed before they can qualify to take a leave. For all leaves, employees must be employed by an employer for a certain length of time before they can take a leave.

All leaves have specific requirements that must be met for an employee to be able to take the leave. For more information on a specific leave, see the fact sheets on our website or contact Employment Standards.

## How long is a leave?

Each leave has a certain length of time that employees can take time off from work.

Some leaves like Family Leave are as short as three days and others like Leave related to the Death or Disappearance of a Child can be as long as 104 weeks.

## Summary of Leaves

Type of Leave	Qualifying Period	Length of Leave	Reason for Leave
Maternity Leave	7 months	17 weeks	For an employee expecting to give birth to a child
Parental Leave	7 months	63 weeks	For parents to care for their new child
Family Leave	30 days	3 days	For an employee to deal with family responsibilities or personal illness
Bereavement Leave - Unpaid Leave for Death of a Family Member	30 days	5 days	For an employee to deal with the death of a family member
Bereavement Leave - Unpaid Leave for Loss of a Pregnancy	30 days	5 days	For an employee to deal with the the loss of a pregnancy
Compassionate Care Leave	90 days	28 weeks	For an employee to care for a seriously ill family member
Long-term Leave for Serious Injury or Illness	90 days	27 weeks	For an employee who has a long-term serious injury or illness
Interpersonal Violence Leave	90 days	10 days and 17 weeks	For an employee to address a situation of violence in the home
Leave for Citizenship	30 days	4 hours	For a new Canadian to receive their certificate of citizenship
Leave Related to the Death or Disappearance of a Child	30 days	52 weeks; 104 weeks	For parents dealing with the death or disappearance of a child that occurred as a result of a crime
Leave for a Reservist	3 months	When needed for service	For an employee in the Canadian Forces Reserve who needs time to serve
Leave for Organ Donation	30 days	13 weeks	For an employee to donate an organ or tissue
Leave related to Critical Illness	30 days; 90 days	37 weeks; 17 weeks	For family members to provide care and support to a critically ill child; For family members to provide care and support to a critically ill adult

## **Who decides what type of leave an employee is taking?**

Employees tell their employers the reason they require a leave. The employer will need enough detail to show the time off work meets the requirements of the leave.

When employees require time off, the employer should ask whether they are advising of a leave available under The Employment Standards Code. Employers do not control when employees can take a leave provided by law, but they do control other types of time off work.

## **Who are considered family members?**

Family is defined very broadly for Employment Standards' purposes. Children, stepchildren, parents, grandparents, spouses, common law spouses, brothers, sisters, step-brothers, step-sisters, aunts, uncles, nieces and nephews are all considered family members. The definition also includes those who are not related, but whom the employee considers to be like a close relative.

## **Who is considered to be a parent for Leave Related to the Death or Disappearance of a Child?**

For these leaves, a "parent" is defined as:

- A parent of a child;
- The spouse or common-law partner of a parent of a child;
- A person with whom the child was placed for the purposes of adoption;
- The guardian or foster parent of a child; or,
- A person who has the care, custody or control of a child, and is considered to be like a close relative, whether or not they are related.

## **Can employees be terminated or laid off for taking a leave provided by The Employment Standards Code?**

No. Employers cannot terminate or lay-off employees because they have taken or requested a leave. Employers may not discriminate or attempt to punish employees for taking a leave.

## **Do employees get paid when on leave?**

No. Employers are not required to pay wages to employees while on leave. For all leaves, the legislation only requires employers to provide the time off and allow employees to return to their job when the leave has ended.

Employers can, and often do, give greater benefits than those provided for in the legislation.

However, other federal programs may provide income replacement. Employees should contact the federal government to find out what types of leaves have income replacement.

The only exceptions under *The Employment Standards Code* where an employer is required to pay a portion of a leave is under the Domestic Violence Leave and the COVID-19 Vaccination Leave.

## **Are there programs to pay employees while on leave?**

The federal government has income support programs to cover certain types of leave. To learn more, call Service Canada toll-free at 1 800 O-Canada (1-800-622-6232).

## **What if the employee's job is no longer available?**

Generally, employees should be returned to the job they had before the leave. However, if the job is no longer available, they must be given a similar position with the same or greater benefits and pay.

There may be some situations where employers do not have a position available for reasons completely unrelated to the leave. For example, employees who are on unpaid leave would not necessarily be protected from losing their jobs if the employer shut down part of their operations and reduced their workforce based on a seniority system.

Employers must show the leave has no impact on the decision to lay-off or terminate the employment.

## **What if the employer refuses to bring the employee back to work?**

Employees must be allowed to return to their job, or a comparable job, with the same or greater pay and benefits when they return from leave. Employees who are not reinstated by their employer can file a complaint with Employment Standards no later than six months after the date the employee should have been reinstated.

## **How does an unpaid leave affect vacations?**

An employee's vacation entitlement remains the same as prior to the leave and cannot be reduced because they have taken a leave. An employee may also defer taking vacation. See the [Vacations & Vacation Pay](#) page for details on earning and paying vacation.

## **What happens to pension and other benefits while an employee is on leave?**

Employment is considered continuous during a legislated leave of absence from work. This means an employee is still employed, though not earning wages for the period of the leave. When employees return from the leave, they are still entitled to any pension and other benefits they had before the leave. As well, their years of service include the time away on the leave.

## **What is a period of employment?**

The period of employment is the length of time from when an employee starts working for an employer until the day the employment ends.

The period of employment also includes periods of temporary interruption in employment (a layoff, an unpaid leave), seasonal employment, and when an employee returns to work for the same employer after a break of less than two months.

Employees who work in a seasonal industry and return to work with the same employer each season have continuous service. Each consecutive season they return adds one more year of service to their total period of employment.

### **Layoffs and Periods of Employment**

It is important to know how to determine an employee's period of employment because wages in lieu of notice is based on their length of employment.

When layoffs are longer than 8 weeks in a 16-week period, they become terminations and wages in lieu of notice is required. The employment is deemed to have been terminated without notice on the first day of the layoff.

The actual date on which a layoff began does not change because a state of emergency is declared or a state of emergency ends. For example:

- If an employee was laid off on February 18, 2020 and the layoff eventually became a termination, the period of employment will be deemed to have ended on February 18, 2020.
- However, if an employee was laid off on July 8, 2020 and the layoff eventually became a termination, the period of employment will be deemed to have ended on July 8, 2020.

## **For more information contact Employment Standards:**

Phone: 204-945-3352 or toll free in Canada 1-800-821-4307

Fax: 204-948-3046

Website: [www.manitoba.ca/labour/standards](http://www.manitoba.ca/labour/standards)

This is a general overview and the information used is subject to change. For detailed information, please refer to current legislation including The Employment Standards Code, The Construction Industry Wages Act , The Worker Recruitment and Protection Act, or contact Employment Standards.

**Available in alternate formats  
upon request.**

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