

EMPLOYMENT STANDARDS

LEAVES OF ABSENCE

Pregnancy, Parental, Personal Emergency, Family Medical & Reservist

The Employment Standards Act, 2000, known as the ESA, is a law that sets minimum standards for workplaces in Ontario.

If you are protected by the ESA, you may have the right to take time off from work for pregnancy, parental, personal emergency, family medical, and reservist leaves.

Pregnancy and Parental Leave

Pregnancy Leave: Pregnancy leave is up to 17 weeks of job-protected, unpaid time off work. If you are pregnant, you are entitled to take pregnancy leave whether you are a full-time, part-time, permanent or contract employee. You must have been hired at least 13 weeks before your baby's expected birth date ("due date").

Parental Leave: As a new parent (e.g. birth parent, adopting parent, person in a relationship with a parent of a child and plans to treat the child as their own) you have the right to take job-protected, unpaid time off work when a child is born or first comes into your care.

You are entitled to take parental leave whether you are a full-time, part-time, permanent or contract employee. To qualify, you must have been hired at least 13 weeks before the start of the leave.

Employees who take pregnancy leave are entitled to take up to 35 weeks of parental leave, usually beginning right after their pregnancy leave ends. Those who do not take pregnancy leave and all other new parents can take up to 37 weeks of parental leave, beginning no later than 52 weeks after the date the child was born or first came into their care. Parents do not have to take their leave at the same time.

Notifying your employer: Except in certain cases, you must inform your employer in writing two weeks before beginning a pregnancy or parental leave. You must also provide your employer with four weeks written notice if you are changing the end date of your leave.

NOTE: Once you have started pregnancy or parental leave, you must take it all at one time and cannot split it up.

Personal Emergency Leave

Personal emergency leave is unpaid, job-protected time off work for up to 10 days per calendar year. To qualify, your employer must regularly employ at least 50 workers.

This leave may be taken for personal illness, injury or medical emergency or for the death, illness injury, medical emergency or urgent matter relating to:

- your spouse
- a parent, step-parent, foster parent, child, step-child, foster child, grandparent, step-grandparent, grandchild or step-grandchild of you or your spouse
- the spouse of your child
- your brother or sister
- a relative who is dependent on you for care or assistance.

Notifying your employer: You must tell your employer that you will be taking Personal Emergency Leave before it begins, or as soon as you can.

NOTE: The 10 days of personal emergency leave do not have to be taken all at once. However, your employer can count any part of a day taken off as a full day of personal emergency leave.

Family Medical Leave

Family medical leave is unpaid, job-protected time off work for up to 8 weeks in a 26-week period.

This leave may be taken to provide care or support to certain family members and people who consider the employee to be like a family member who have a serious medical condition with a significant risk of dying within a period of 26 weeks.

The medical condition and risk of death must be confirmed in a certificate issued by a qualified health practitioner.

Family medical leave is available to you whether you apply for federal Employment Insurance compassionate care benefits or not. If you are applying for Employment Insurance (EI) compassionate care benefits, a copy of the medical certificate submitted to Human Resources and Social Development Canada may also be used for the purpose of family medical leave.

You are entitled to family medical leave whether you are a full-time, part-time, permanent or contract employee.

If two or more employees qualify to take the leave to care for the same person, the eight weeks must be shared.

Notifying your employer: You must inform your employer in writing that you will be taking family medical leave before it begins, or as soon as you can.

NOTE: The 8 weeks of a family medical leave do not have to be taken at the same time.

Reservist Leave

Employees who are military reservists and who are deployed to an international operation or to an operation within Canada that is or will be providing assistance in dealing with an emergency or its aftermath (including search and rescue operations) are entitled under the ESA to unpaid leave for the time necessary to engage in that operation. In the case of an operation outside Canada, the leave would include pre-deployment and post-deployment activities that are required by the Canadian Forces in connection with that operation.

In order to be eligible for reservist leave, you must have worked for your employer for at least six consecutive months. Generally, reservists must provide their employer with reasonable written notice of the day on which they will begin and end the leave. Reservist leave is only available to reservists who gave their required notice and were deployed on operations on or after December 3, 2007.

Employees on a reservist leave are entitled to be reinstated to the same position if it still exists or to a comparable position if it does not. If the employer postpones the employee's return to work, the employer is required to pay the employer's share of premiums for certain benefit plans related to his or her employment and allow the employee to participate in such plans for the period the return date is postponed.

Seniority and benefits

Seniority: You continue to earn seniority and credit for length of service and length of employment while on any of the four leaves.

Employer-provided benefit plans: While you are on pregnancy, parental, personal emergency or family medical leave, your employer must continue to pay into most benefit plans (i.e., pension, life and extended health insurance, accidental death and dental plans).

Federal Employment Insurance benefits: Maternity, parental and compassionate care benefits are payments from the federal Employment Insurance program. For more information, call Human Resources and Social Development Canada – Employment Insurance Inquiry line toll-free at 1-800-206-7218.

Can I be fired for taking these leaves?

No. If you are eligible, you have the right to take pregnancy, parental, personal emergency, family medical, and reservist leaves.

Your employer cannot intimidate you, fire you, suspend you, reduce your pay, punish you in any way, or threaten any of these actions because you take or plan to take any of these leaves.

If this happens, contact the Ministry of Labour.

Contact the Ministry of Labour

Call the Employment Standards Information Centre at 416-326-7160, 1-800-531-5551 (toll free), or 1-866-567-8893 for Hearing Impaired TTY. If you do not speak English or French, please find someone who does and have them with you when you call.

Visit the Employment Standards section of the Ministry of Labour website, www.labour.gov.on.ca, to access online publications that provide more detailed information on the rights that are protected by the ESA.

This information is provided as a public service. Although we endeavour to ensure that the information is as current and accurate as possible, errors do occasionally occur. Therefore, we cannot guarantee the accuracy of the information. Readers should, where possible, verify the information before acting on it.



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