

Attachment Leave

Employees who need time to attach to a child and carry out responsibilities related to the placement of a child into their care through adoption or surrogacy may be entitled to this leave. Attachment leave provides 16 weeks unpaid time off work and protects employees from lay-off or job termination during the period of the leave.

Who can take attachment leave?

Employees who have worked for the same employer for at least seven consecutive months and are welcoming a child through an adoption placement or via surrogacy are eligible to take attachment leave.

How long is the leave and how must it be taken?

Eligible employees are entitled to take attachment leave for up to 16 weeks. The leave must be taken in one continuous period unless the employer and employee agree to a different arrangement.

What verification is needed?

If requested by the employer, an employee must provide reasonable evidence to show their entitlement to the leave. The 'date of placement' is considered to be the date the child actually arrives at the employee's home, not the date that the adoption is finalized, as this can be a lengthier legal process. Reasonable evidence may include a letter from the adoption agency confirming the family's intent to adopt.

Can attachment leave and parental leave be taken together?

An employee can take Parental Leave right after Attachment Leave.

Employees must take the leave in one continuous period. Employees who have taken attachment leave and also wish to take parental leave, must do so immediately following the attachment leave, unless the employer agrees to a different arrangement.

What happens when attachment leave ends?

Employees who have taken attachment leave and also wish to take parental leave, must do so immediately following the attachment leave, unless the employer agrees to a different arrangement.

How much notice is required to take the leave?

Employees are required to give the employer written notice at least four weeks before the day the leave is to begin, unless circumstances necessitate a shorter period of notice. If an employee does not give notice or gives less notice than required, they are still entitled to a leave under this section beginning on the day that the employee stops working.

What if employees want to end their Maternity, Parental or Attachment Leave early?

Employees who want to return to work before their leave has ended must give their employers notice in writing, at least two weeks or one pay period, whichever is longer, before returning to work.

Can both parents access attachment leave?

Please reach out to the federal government to confirm whether both parents meet the eligibility requirement. To learn more, call Service Canada toll-free at 1-800-O-Canada (1-800-622-6232).

Can employers provide additional leave or paid days of leave?

Yes. Employers can give greater benefits than those provided for in the legislation.

Can employees be terminated or laid off because they take a leave?

No. Employers cannot terminate or lay off employees because they took or requested a leave.

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.

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 Interpersonal Violence Leave and the COVID-19 Vaccination Leave.

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 happens when the leave ends?

Employees must be allowed to return to their job, or a comparable job with the same or greater benefits and pay, when they return from leave. Employers may not discriminate or attempt to punish employees for taking a leave.

Will the information about the leave be confidential?

Unless it is required by law or the employee has given consent, employers cannot disclose information related to a leave except to other persons in the workplace, who need to know in order to carry out their duties.

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.

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).

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

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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