

Family Leave

Family leave allows employees unpaid time off to deal with family responsibilities or personal illness without fear of job loss.

What is the difference between compassionate care leave and family leave?

Compassionate Care Leave provides employees the opportunity to assist a family member who is critically ill and requires care and support for up to 28 weeks.

Family Leave is a short leave to take care of the needs of the employees' family or a personal illness.

How long is family leave?

The legislation provides three unpaid days per year as family leave. Many employers give greater benefits than those provided for in the legislation, such as more days off or paid leave.

Who can take family leave?

All employees employed for at least 30 days with the same employer are entitled to this leave.

Are employees paid while on family leave?

No. The legislation only requires employers to provide time off and allow employees to return to their job when the leave has ended. Employers are not required to pay wages during the leave. Employers can, and often do, give greater benefits than those provided for in the legislation.

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.

When can employees take family leave?

Employees can take family leave to deal with personal illness or the needs of their family. In some situations, this can be arranged in advance, but in others, that is not possible.

This leave is short term (3 unpaid days) and as a result “family responsibilities” is viewed broadly. In the majority of cases this is used to allow an employee to address health care needs for themselves or their family. It has also been used for unexpected child care situations. However, the leave is not limited to those situations as long as employees provide the employer with as much notice as reasonable and practical. They must also provide reasonable verification the leave is necessary if requested by the employer.

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.

What is reasonable verification for family leave?

Reasonable verification will be different from case to case. For example, a doctor's note may be needed in some cases, but not in others. The intent is to reasonably confirm the employee is dealing with their own illness or the needs of their family during the leave.

Can employees who do not take any family leave this year, use six days next year?

No. Each year employees are eligible for three days of leave but it does not carry over to future years.

Can employees take part of a day as family leave?

When an employee takes part of a day for family leave, the employer may count that as a full day of the leave. Employers do not have to accommodate an employee taking the leave in part days, as long as they allow the employee to take the leave.

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 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.

Can employers give paid leave or more time off?

Yes. Employers can, and often do, give greater benefits than those provided for in the legislation. Many employers provide more days or will pay employees for their 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 Interpersonal Violence Leave and the COVID-19 Vaccination Leave.

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.

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 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

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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