

## **Parental Leave**

Parental leave gives parents the opportunity to take an unpaid leave from work, to care for a new child in their family, without the fear of job loss.

### **What is the difference between maternity leave and parental leave?**

Maternity leave is an unpaid leave, taken by mothers near the end of a pregnancy or immediately afterwards.

Parental leave is taken by fathers and mothers to care for a child after birth or adoption.

### **Who qualifies for parental leave?**

Employees who have worked with the same employer for at least seven consecutive months and have become a parent by birth or adoption are entitled to the leave.

### **How long is parental leave?**

Parental leave is up to 37 weeks long and must be taken in one continuous period.

### **Does the employer need to pay during the 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 will, give greater benefits than those provided for in the legislation.

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

Yes, the federal government provides programs through Employment Insurance (EI) to cover this type of leave. Please check with your local EI office or call 1-800-206-7218 for details.

### **How does an employee start parental leave?**

Parental leave can begin up to one year after the birth or adoption of a child. Employees who have taken maternity leave and also wish to take parental leave, must do so immediately following the maternity leave, unless the employer agrees to a different arrangement.

Employees requesting parental leave must give the employer at least four weeks' written notice before the leave.

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

Employees must tell their employer what type of leave they are taking. The employer will need enough detail to show the time-off meets the requirements for a statutory leave.

If an employee requests time-off without specifying a statutory leave, the employer should ask whether they are advising of a leave under The Employment Standards Code or requesting permission for unpaid time-off. Employers do not control when an employee can take an unpaid leave under The Employment Standards Code, but they do control other types of time-off.

## **What if employees don't give notice?**

Employees are still entitled to parental leave if they do not give four weeks' written notice. If an employee does not give notice, the leave can be shortened by the amount of notice not given. For example, an employee who only gives two weeks' written notice would only be entitled to 35 weeks' 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.

## **What if employees want to end their Maternity or Parental 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.

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

Generally, a comparable position with the same pay and benefits must be offered. In special circumstances, employers may not have a position available for reasons completely unrelated to the leave. For example, if employers shut down part of their operations and reduce their workforce based on a seniority system, employees who are on unpaid leave would not necessarily be protected from losing their jobs.

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

## **What if employers refuse to bring employees back to work?**

An employee must be allowed to return to their previous job, or a comparable one, with no reduction in pay or responsibilities. An employee who believes they were demoted or terminated because they took or requested a leave may file a claim with the Employment Standards.

Employers who do not allow employees to return to work at their old position, or a comparable one, after a leave may be ordered to pay compensation, and in some cases return the employee to their job.

## How does an unpaid leave affect vacations?

During a legislated or approved leave of absence from work, employment is considered continuous. Therefore, an employee is still considered employed, though not earning wages. The leave does not affect employees right to take vacation time; it only affects the amount of vacation wages earned. See the [Vacations and Vacation Pay](#) page for details on earning and paying vacation.

## For more information contact the Employment Standards Branch:

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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* and *The Worker Recruitment and Protection Act*, or contact the Employment Standards Branch to ask for advice.

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