

## **Leave for Organ Donation**

Leave for organ donation allows employees to take unpaid leave to donate an organ or tissue to another individual.

### **Who qualifies for leave for Organ Donation?**

Employees who have worked for their employer for at least 30 days. Employees must provide a certificate from a doctor stating the start and end dates for the period of time necessary to donate the organ and recover from the procedure.

### **How do employees start a leave for organ donation?**

The need for this type of leave can be unpredictable. Employees must give their employer as much written notice as possible and a certificate from a doctor stating the start and end dates for the period of time necessary to donate the organ and recover from the procedure.

### **How long is the leave?**

The leave is up to 13 weeks. The employee can take leave for the period of time stated in the doctor's certificate.

### **If employees have not recovered, can this leave be extended?**

Employees are entitled to extend their leave by up to an additional 13 weeks, if a doctor provides another certificate stating the time period needed to finish recovering.

### **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 when the leave ends?**

Employees must be returned to the position the employee occupied when the leave began or to a comparable position, with no less than the pay and benefits the employee earned immediately prior to the leave.

## **What if an employee wants to end the Leave for Organ Donation early?**

Employees who wish to return to work before their leave has ended must give their employer written notice of their intent at least one pay period before the day he or she wishes to end the 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 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...

- Termination?

When it comes to how much notice an employer or an employee has to give upon termination, the amount of time spent on the leave has to be included in determining the length of service. See the [Termination of Employment](#) fact sheet for more details.

- Vacation?

The leave does not affect the amount of vacation time an employee is entitled to, as the time spent on leave is included in the employee's length of service. However, since vacation pay is a percentage of wages earned, the leave will affect the vacation pay. See the [Vacations & Vacation Pay](#) fact sheet for more details.

## 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](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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