

Leave for Parental Reasons in Employment Standards Legislation

Jurisdiction	Maximum Leave Duration—Unpaid (in weeks) ¹				Eligibility Requirements		Seniority During Leave ²	Maintenance of Benefit Plans During Leave
	Maternity	Parental (with / without mat. leave) ³	Max. Total (mat. + par.)	Adoption ⁴	Length of Service ⁵	Minimum Notice ⁶		
Federal ⁷	17	37 / 37	52	37	6 consecutive months	4 weeks	Accrual	Yes
Alberta ⁸	15	37 / 37	52	37	52 consecutive weeks	6 weeks ⁹	Maintained	<i>Not specified</i>
British Columbia ¹⁰	17	35 / 37	52	37	<i>N/A</i>	4 weeks	Maintained	Yes
Manitoba ¹¹	17	37 / 37	54	37	7 consecutive months	4 weeks ¹²	<i>Not specified</i>	Yes
New Brunswick ¹³	17	37 / 37	52	37	<i>N/A</i>	2 weeks (maternity leave); 4 weeks (parental leave) ¹⁴	Accrual	<i>Not specified</i>
Newfoundland and Labrador ¹⁵	17	35 / 35	52	52 ¹⁶	20 consecutive weeks	2 weeks	Maintained	No
Northwest Territories / Nunavut ¹⁷	17	37 / 37	52	37	12 consecutive months	4 weeks	Maintained	<i>Not specified</i>
Nova Scotia ¹⁸	17	35 / 52	52	52	12 consecutive months	4 weeks	Maintained	Yes (at employee's cost)
Ontario ¹⁹	17	35 / 37	52	37	13 weeks	2 weeks	Accrual ²⁰	Yes
Prince Edward Island ²¹	17	35 / 35	52	52	20 continuous weeks	4 weeks	Maintained	No ²²
Quebec ²³	18	52 / 52 ²⁴	70	52	<i>N/A</i>	3 weeks	Maintained	Yes ²⁵

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Saskatchewan ²⁶	18	34 / 37	52	37 / 52 ²⁷	20 weeks in 52 weeks preceding leave	4 weeks ²⁸	Accrual	Yes
Yukon ²⁹	17	37 / 37	54	37	12 continuous months	4 weeks	Maintained	<i>Not specified</i>

Notes:

¹ All jurisdictions specify the period during which maternity and parental leave may be taken. For example, employees covered by the *Canada Labour Code* may take their maternity leave from 11 weeks before to 17 weeks after the date of confinement. As for parental leave, it must be completed within the 52-week period following the birth of the child, or following the day on which the child comes into the employee’s care.

Moreover, legislation in some jurisdictions allows employees to extend their maternity leave for medical or other reasons. Seven jurisdictions (Alberta, British Columbia, Newfoundland and Labrador, Ontario, Prince Edward Island, Saskatchewan, and Yukon) guarantee at least six weeks of post-natal leave. This minimum post-natal leave is unconditional in British Columbia. It applies to employees who are not taking parental leave in Newfoundland and Labrador and Ontario, and to those who gave birth later than the expected date in Prince Edward Island and Saskatchewan. In Alberta, the minimum post-natal leave is to be charged against any remaining maternity leave first, then against parental leave, reducing the latter accordingly. Finally, employees in Yukon (see below) are entitled to this minimum period only if they have pregnancy-related health problems. It is worth mentioning that legislation in Nova Scotia provides that maternity leave may not end sooner than one week after the date of delivery.

Manitoba, Quebec, Nunavut and the Northwest Territories provide a maternity leave extension if the actual date of delivery occurs later than the estimated date of birth; such an extension is equal to the period of time between the two dates. In the Northwest Territories and Nunavut, this is limited to six additional weeks of leave. Only employees who have less than two weeks of regular maternity leave remaining after delivery are entitled to this extension in Quebec.

In British Columbia, pregnancy leave may be extended for six consecutive weeks if the employee is unable to return to work for reasons related to the birth or the termination of the pregnancy. Parental leave may be extended by up to five additional weeks when a child suffers from a physical, psychological or emotional condition requiring additional parental care. Similarly, in Quebec, an employee’s maternity leave may be extended if required due to her state of health or that of her child, for a duration indicated in a medical certificate. In Saskatchewan, maternity leave can be extended for up to six weeks if an employee is unable to return to work for medical reasons. And, in Yukon, an employee who requires leave because of health problems associated with her pregnancy cannot be required to return to work during the six weeks that follow the date of birth or termination of the pregnancy.

Finally, statutes in both Quebec and the federal jurisdiction contain special leave provisions for pregnant (or nursing) employees if the employee’s current job functions could pose a risk to the employee’s health or to that of the foetus or child.

² The column ‘Seniority During Leave’ deals with whether or not an employee’s seniority for length of service continues to accrue while they are on leave for parental reasons or whether their seniority is maintained at the level held by the employee prior to the start of their leave.

³ A majority of jurisdictions, namely British Columbia, Manitoba, Newfoundland and Labrador, the Northwest Territories, Nova Scotia, Nunavut, Ontario, Quebec and Saskatchewan (with respect to parental leave) permit both parents to take the full period of parental or adoption leave. In the other jurisdictions, parental leave can normally be shared between parents. However, legislation in Alberta stipulates that there is no requirement to grant parental leave to more than one parent at a time if both parents of a child are employed with the same employer. In Yukon, parents who share a parental leave cannot normally take their leave at the same time, whether or not they work for the same employer.

⁴ Indicates the maximum duration of leave for adoptive parents. In most jurisdictions, adoptive parents are entitled to the same parental leave as birth parents. In Newfoundland and Labrador and Saskatchewan a distinct adoption leave is available to eligible adoptive parents in addition to parental leave.

⁵ This requirement refers to the length of continuous service (with the exception of Saskatchewan) with the same employer.

⁶ Refers to the minimum period of written notice an employee must give his or her employer prior to taking a maternity, adoption or parental leave. However, in most jurisdictions, an employee may be exempted from notice requirements in certain situations (e.g., early birth, pregnancy-related health problems, unforeseeable placement date for adopted child, etc.).

⁷ *Canada Labour Code*: sections 204 to 209.5.

⁸ *Employment Standards Code*: sections 45 to 53.1.

⁹ If an employee who intends to take maternity leave fails to give the necessary notice, she is still entitled to maternity leave if within 2 weeks after she ceases to work, she provides her employer with a medical certificate indicating that she is not able to work because of a medical condition arising from her pregnancy, and giving the estimated or actual date of delivery.

¹⁰ *Employment Standards Act*: sections 50, 51 and 56.

¹¹ *Employment Standards Code*: sections 52 to 59.1.

¹² In Manitoba, an employee who fails to give sufficient notice is entitled to a shorter parental leave. The length of the parental leave is reduced by a period equal to the number of days by which the notice given is less than four weeks.

¹³ *Employment Standards Act*: sections 42 to 44 and 44.02.

¹⁴ In New Brunswick, an employee must also, four months before the projected date of delivery or as soon as her pregnancy is confirmed, whichever is later, advise her employer of her intent to take a leave and the anticipated commencement date in the absence of an emergency. Where an employee becomes an adoptive parent, he or she must give four months' written notice (or provide written notice as soon as possible in the event of an emergency) of his/her intent to take leave, as well as providing proof of actual or expected placement and notification of the start date and duration of the leave.

¹⁵ *Labour Standards Act*: sections 39 to 43.9.

¹⁶ This amount represents the aggregate of 17 weeks of adoption leave and 35 weeks of parental leave.

¹⁷ *Labour Standards Act*: sections 30 to 39.

¹⁸ *Labour Standards Code*: sections 59 to 60.

¹⁹ *Employment Standards Act, 2000*: sections 45 to 49 and 51 to 53.

²⁰ Although employees in Ontario continue to accrue seniority during any maternity or parental leave for the purposes of calculating an employee's length of service, the period of an employee's leave is not included when determining whether an employee has completed a probationary period under an employment contract.

²¹ *Employment Standards Act*: sections 18 to 22.

²² An employer is not required to pay employee pension benefits in respect of any period of maternity leave granted to an employee.

²³ *An Act Respecting Labour Standards*: sections 81.1 to 81.17.

An employee in Quebec is entitled to five days of leave (including two days with pay if he/she has at least 60 days of uninterrupted service) following the birth or adoption of a child. This leave may not be taken once 15 days have passed since the child's arrival in the home of his mother or father. An employee who adopts the child of his/her consort is entitled to two days without pay. In addition, a female employee may be absent from work without pay for an examination by a physician or midwife related to her pregnancy.

²⁴ In addition to other leaves, effective January 1, 2006, an employee is entitled to a paternity leave of not more than 5 uninterrupted weeks without pay at the time of the birth of his child. This leave must be taken at the earliest, in the week in which the child is born, and no later than 52 weeks after the birth.

²⁵ An employee's pension and benefit plans are maintained through the course of their leave if employees who make contributions to their benefit plans continue to make these contributions for the duration of the leave.

²⁶ *Labour Standards Act*: sections 23 to 29.2.

²⁷ In Saskatchewan, the primary caregiver of an adopted child is entitled to 18 weeks of adoption leave and 34 weeks of parental leave. The other parent may take up to 37 weeks of parental leave.

²⁸ An employee in Saskatchewan who fails to give her employer a written application for a maternity leave and who does not provide a medical certificate attesting that there were *bona fide* medical reasons to cease work immediately is entitled to 14 weeks of unpaid leave (compared to 18 weeks otherwise).

²⁹ *Employment Standards Act*: sections 36 to 43.

Labour Law Analysis
International and Intergovernmental Labour Affairs
Labour Program, Human Resources and Social Development Canada
February 11, 2006