

MCGUINTY GOVERNMENT ACTS TO PROVIDE MILITARY RESERVISTS WITH JOB-PROTECTED LEAVE

The McGuinty government has introduced legislation, that, if passed, would provide job-protected leave for military reservists. Such leaves would be available for reservists serving on certain domestic operations, such as search and rescue operations or national disasters such as flood relief or ice storms, as well as for international deployments.

Background

Military reservists are currently not protected by legislation to ensure they can return to their civilian jobs or a comparable job with the same employer when a tour of duty is completed. The proposed legislation seeks to provide this protection.

Requirements for Leave

To qualify for the leave a reservist must have worked for their employer for at least six consecutive months. All employers covered by the Employment Standards Act, 2000, regardless of size, would be required to provide the leave to eligible employees.

Reservists would be entitled to a leave period necessary to engage in the operation they are deployed to. In the case of international operations this would include any pre-deployment or post-deployment activities required by the Canadian Forces.

The reservist would be required to provide reasonable notice, in writing, before beginning and ending the leave, and may be required to provide proof of service if requested by the employer.

The proposed legislation would allow employers to postpone the reservists' reinstatement for two weeks or one pay period, whichever is later.

A reservist's employer would not have to pay the reservist while he or she is on leave and would not be required to continue any pension or benefit plan contributions for the duration of the leave. However, if the employer chose to postpone the return date, the employer would be required to make benefit contributions during this additional period of time.

Reservists seniority and length of service credits would continue to accumulate during the leave.

Job Protection Upon Return

Upon the reservist's return from leave, the employer would be required to reinstate the reservist to the same position if it still exists, or to a comparable position if it does not.

The Ministry of Labour Employment Practices Branch would enforce the proposed legislation in non-unionized workplaces with the same remedies for violations as other leave provisions under the Employment Standards Act, 2000. In unionized workplaces, enforcement would be under the applicable collective agreement.

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