## PROTECTED LEAVES

[Organization Name] recognizes that qualified employees have the right to take a job-protected leave without any negative consequences to their employment. As such, [Organization Name] is committed to adhering to the guidelines established by the Nova Scotia *Labour Standards Code* (The Code) with respect to any job-protected leaves.

POLICY

The purpose of this policy is to outline the job-protected leaves employees have a right to take under the Code so that:

* Employees know their rights; and
* [Organization Name] manages employee leave in a fair and consistent manner.

[Organization Name] will adhere to all regulations covered under the Labour Standards Code.

1. Pregnancy and Parental Leave
2. Reservist Leave
3. Compassionate Care Leave
4. Critically Ill Child Care Leave
5. Critically Ill Adult Care Leave
6. Domestic Violence Leave
7. Crime-related Death or Disappearance of a child Leave
8. Emergency Leave,
9. Sick Leave
10. Bereavement Leave
11. Court Leave
12. Citizenship Ceremony Leave

A leave of absence occurs when an employee leaves their job with the intention of returning. Under the Labour Standards Code, employees are entitled to multiple leaves.

The majority of leaves are unpaid, which means [Organization Name] is not required to compensate the employee during these absences. Some of these leaves may be covered by employment insurance. Employees who take domestic violence leave are entitled to be compensated for a portion of their leave.

For all protected leaves under the Labour Standards Code, the [Organization Name] will:

* allow the employee to continue participating in any benefit plans to which the employee is a member at their own expense. *Note: [Organization Name] will provide ten days' written notice before terminating the option to maintain employee benefits;* and
* accept the employee back to the position held immediately before the leave began, or, if that position is not available, a comparable position with no loss of seniority or benefits, when the employee returns from leave.

Additionally, [Organization Name] will maintain the confidentiality of any information received in connection with an employee's protected leave of absence. [Organization Name] will not share the information unless:

* the employee has consented to the sharing;
* an agent or employee of the [Organization Name], such as a manager, requires the information to perform their job; or
* the law requires disclosure of the information.

1. **Pregnancy and Parental Leaves**

Unpaid pregnancy leave is available to pregnant employees. It is possible for it to last up to 16 weeks. [Organization Name] may require an employee to take an unpaid leave of absence if the pregnancy interferes with the employee's ability to perform their job. Occasionally, however, the Human Rights Act or the employee's contract preclude this.

Additionally, the Labour Standards Code provides for parental leave to care for newborn or newly adopted children. This is an unpaid leave that can last up to 77 weeks.

Employees who also take pregnancy leave have the option of taking a combined 77 weeks of pregnancy (16 weeks) and parental (61 weeks) leave.

Employees are not required to have a minimum number of years of service to qualify for pregnancy and parental leave. For instance, an employee may take parental leave shortly after beginning work.

Process

To take pregnancy or parental leave, an employee must provide [Organization Name] with at least four weeks' notice of both the start date of the leave and, if the employee intends to return early, the anticipated return date to work.

If an employee is unable to provide four weeks' notice of leave because they have been employed for less than four weeks, the baby is born prematurely, due to a medical condition, or due to an unexpected adoption placement, the employee must provide as much notice as possible.

[Organization Name] may require proof of pregnancy or parental leave entitlement. This may include a letter from a physician or an adoption worker.

If an employee wishes to take both pregnancy and parental leave, they must be taken consecutively and the employee must not return to work between the two leaves.

If an employee is taking parental leave but not pregnancy leave, they may take up to 77 weeks of leave following the birth or arrival of the child in the home. If the employee does not take the leave within 18 months of the child's arrival in the home, the employee forfeits this right.

If a newly arrived child requires more than one week in the hospital, the employee may return to work and use the remainder of the parental leave after the child is discharged.

Employees who take maternity or parental leave may be eligible for maternity or parental leave benefits through the federal government's Employment Insurance program.

1. **Reservist Leave**

The Labour Standards Code provides for a leave of absence for employees who serve in the reserve forces of the Canadian Forces and require time away from their civilian jobs for military service.

Leave may be taken for deployments—inside or outside of Canada—and associated activities; training required by the Canadian Forces, including military skills training; travel associated with deployment and training; and treatment, recovery, or rehabilitation for a physical or mental health problem related to deployment or training activities.

To be eligible for this leave, an employee must have worked for [Organization Name] for a minimum of three months.

Employees eligible for reservist leave may take up to 24 months during any 60-month period. They may take additional leave if required by the Emergencies Act (Canada). Employees on reservist leave must return to work within four weeks of the end of their deployment-related period of service. Employees who take reservist leave for non-deployment training must report to work no later than the next regularly scheduled working day following the conclusion of the training-related period of service.

Process

An employee must provide [Organization Name] with four weeks' written notice of their intention to take reservist leave, the anticipated start and end dates of the leave, and the anticipated return to work date.

If an employee receives less than four weeks' notice from the Canadian Forces that they must participate in a period of service, they must give their [Organization Name] as much notice as is reasonable in the circumstances—notice does not have to be in writing if it is impractical.

If the employee's anticipated leave start and end dates or anticipated return to work date change, the employee must notify [Organization Name] as soon as reasonably possible and in writing if possible.

[Organization Name] may require an employee to provide a certificate from a Reserves official certifying the employee is a Reserves member required for service and specifying the dates of service.

1. **Compassionate Care Leave**

Compassionate care leave is a 28-week unpaid leave available to employees who must care for a seriously ill family member (or a person similar to family) who faces a high risk of death within 26 weeks. To be eligible for this leave, the employee must have worked for [Organization Name] for a minimum of three months.

Process

* The employee must provide as much notice as possible to [Organization Name] prior to taking leave.
* [Organization Name] may require an employee to provide a medical certificate from a physician certifying that a family member is gravely ill.
* The employee is permitted to take up to 28 weeks of leave, which must be taken within a 52-week period.

The leave can be divided into several periods of at least one week duration over the course of the 52-week period. The 52-week period begins on the first day of the week following the start of the leave.

Employees who take a compassionate care leave may qualify for a compassionate care leave benefit under the federal government’s Employment Insurance program. Contact Service Canada for additional information on this benefit.

1. **Critically Ill Child Care Leave**

Critically ill child care leave is an unpaid leave that enables an employee to take time off work to care for and support a family member's critically ill or injured child (under the age of 18 or a person like family). To be eligible for this leave, the employee must have worked for [Organization Name] for a minimum of three months.

A qualified physician must issue a medical certificate certifying that the child has a critical illness and the duration of the child's need for care.

Employees are permitted to take up to 37 weeks of leave, which must be taken within a 52-week period. During this time period, the leave can be divided into several periods of at least one week’s duration. The 52-week period begins on the first day of the week following the child's critical illness.

In some instances, an employee may require additional leave, which may be taken with the issuance of an additional certificate—the total combined leave must not exceed 37 weeks during the 52-week period.

The leave period expires after the specified number of weeks specified in the medical certificate has been used. If the employee ceases to provide care for the child, the leave will terminate at the end of the week during which the employee ceases to provide care. Employees may return to work earlier if they provide at least 14 days' notice.

Employees who take a critical illness leave of absence to care for a child may be eligible for benefits under the federal government's Employment Insurance program. Contact Service Canada for additional information on this benefit.

Process

The employee must notify [Organization Name] in writing of their intention to take leave as soon as possible.

Where the leave must begin prior to giving written notice, the employee must notify [Organization Name] as soon as possible.

Additionally, the employee must provide [Organization Name] with a plan outlining how the leave will be taken, as the leave may be divided into multiple periods over the 52-week period. This leave plan may be modified during the leave with the employer's consent or by providing reasonable notice to [Organization Name].

The [Organization Name] may request a copy of the medical certificate in writing.

1. **Critically Ill Adult Care Leave**

Critically ill adult care leave is an unpaid leave that enables an employee to take time off work to provide care and support to a family member who is critically ill or injured (or a person like family).

To be eligible for this leave, the employee must have worked for their employer for a minimum of three months.

A qualified physician must issue a medical certificate certifying that the adult has a critical illness and the duration of the adult's need for care.

Employees are permitted to take up to 16 weeks of leave, which must be taken within a 52-week period. During this time period, the leave can be divided into several periods of at least one week. The 52-week period begins on the first weekday of the adult's critical illness.

In some instances, an employee may require additional leave, which may be taken with the issuance of an additional certificate—the total combined leave must not exceed 16 weeks during the 52-week period.

The leave period expires after the specified number of weeks specified in the medical certificate has been used. If the employee ceases to provide care to the adult, the leave will terminate at the end of the week during which the employee ceases to provide care. Employees may return to work earlier if they provide at least 14 days' notice.

Employees who take a leave of absence due to a critical illness may be eligible for benefits under the federal government's Employment Insurance program.

Process

The employee must notify [Organization Name] in writing of their intention to take leave as soon as possible.

Where the leave must begin prior to giving written notice, the employee must notify the employer as soon as possible.

Additionally, the employee must provide [Organization Name] with a plan outlining how the leave will be taken, as the leave may be taken in more than one period over the 52-week period. This leave plan may be modified during the leave with the consent of [Organization Name] or by providing reasonable notice to the employer.

The [Organization Name] may request a copy of the medical certificate in writing.

1. **Domestic Violence Leave**

An employee who is a victim of domestic violence or whose child (under the age of 18) is a victim of domestic violence may request domestic violence leave. Per calendar year, the employee may take up to ten intermittent or consecutive days off. Additionally, the employee may take up to 16 consecutive weeks (continuous) per calendar year. Employers must pay for up to three days of leave.

To be eligible for this leave, the employee must have worked for their employer for a minimum of three months.

Domestic violence is defined broadly in the Labour Standards Code. It is a form of physical, sexual, emotional, or psychological abuse. Coercion, stalking, harassment, and financial control are all examples of coercion. Alternatively, it could be a threat of such abuse.

The leave is applicable to domestic abuse situations involving the following relationships:

* An employee who is abused by:
  + their current or former intimate partner
  + their child
  + a person under 18 years who lives with them, or
  + an adult who lives with them and is related to them by blood, marriage,
  + adoption, or foster care
* An employee whose child is abused by:
  + the child’s current or former intimate partner, or
  + a person who lives with the child

Domestic violence leave may be used by an employee to seek medical attention for themselves or their child; to obtain services from a victim services organization, psychological or other professional counselling (or certain culturally-specific services); to temporarily or permanently relocate, or to seek legal or law enforcement assistance.

Process

[Organization Name] must be notified in writing as soon as possible of an employee's intent to take domestic violence leave, as well as the anticipated start and end dates of the leave.

[Organization Name] may request that employees submit a [form developed by the Labour Standards Division](https://novascotia.ca/lae/employmentrights/docs/Domestic-Violence-Leave-Notification-Form.pdf) to substantiate their right to domestic violence leave. [Organization Name] has the option of requiring employees to submit this form, which is available online or by contacting the [Labor Standards Division](https://novascotia.ca/lae/labourstandards/contact.asp).

Domestic violence leave can last up to 16 consecutive weeks. To terminate a longer leave early, the employee must provide written notice to the employer at least 14 days in advance, or as much notice as possible.

The shorter portion of the leave is ten days, which may be taken in segments or in its entirety. Employees may terminate this leave early by providing as much notice as possible.

[Organization Name] will pay for up to three days of domestic violence leave per calendar year. Each of the three paid days must be compensated at the employee's regular rate of pay for all hours worked that day if the leave had not been taken.

The employee may designate which of the three days are paid by notifying [Organization Name] in writing. Otherwise, [Organization Name] is required to treat the first three days of leave as paid.

Any portion of a day taken for domestic violence leave is considered a full day. If an employee works a portion of a day, they must be compensated for the time.

Additionally, paid leave for any portion of a workday would count as one of the employee's three paid days under the Labour Standards Code. For instance, if an employee takes three hours of domestic violence leave during a seven-hour shift and then works the remainder of the shift, this counts toward one of their ten days of leave.

Additionally, if the employee is compensated for the three hours of leave, it counts as one of the three days of paid leave.

The law requires that employees make reasonable efforts to schedule appointments during non-working hours.

1. **Crime-related Child Death or Disappearance Leave**

Unpaid leave for crime-related death or disappearance is available to parents and guardians who are facing the death or disappearance of their child (under the age of 18) as a result of a probable crime.

To be eligible for this leave, the employee must have worked for their employer for a minimum of three months. If the employee is charged with a crime, they are not entitled to leave.

Employees may take up to 52 weeks of unpaid leave if their child goes missing and up to 104 weeks if their child dies.

If a missing child is discovered alive during the employee's 52-week leave period, the employee may extend the leave by an additional 14 days. If the child is discovered dead, the employee's disappearance leave immediately terminates and the employee may begin taking 104 weeks of leave related to the child's death.

Where it appears that the employee's death or disappearance was not the result of a crime, the employee may extend the leave for another 14 days and must notify the employer in writing of their return to work as soon as possible.

The employee may terminate the leave early by providing 14-days’ written notice to the employer.

Employees who take a leave of absence due to a crime-related death or disappearance may be eligible for income support through a federal grant.

Process

The employee must notify the [Organization Name] in writing of their intention to take leave as soon as possible. Where the leave must begin prior to giving written notice, the employee must notify [Organization Name] as soon as possible.

Additionally, the employee must provide [Organization Name] with a written plan outlining the duration of their leave, which may be modified during the leave period with [Organization Name]'s consent or by providing [Organization Name] with four weeks' written notice.

The employer may require reasonable evidence of the child's death or disappearance, as well as evidence that it was most likely caused by a crime.

1. **Emergency Leave**

Unpaid leave is available to employees who are unable to perform their jobs due to the following:

* a declaration of an emergency pursuant to the Emergency Management Act, or
* a direction or order of a medical officer—or a declaration of a public health emergency pursuant to the Health Protection Act, or
* a declaration of an emergency pursuant to the Emergencies Act (Canada)

Employees are also eligible for leave if they are unable to perform their job duties due to the need to care for a family member who is impacted by one of the aforementioned emergency situations and the employee is the only person who can reasonably care for the family member in the circumstances.

Employees are eligible for leave for the duration of the emergency that prevents them from performing their job. For instance, if an employee is capable of performing their job remotely, the leave is not applicable.

1. **Sick Leave**

Each year, employees have the right to up to three days of unpaid sick leave. This leave may be taken to care for a parent, child, or other family member who is ill. Additionally, it can be used to cover medical, dental, or similar appointments for the employee or a family member of the employee.

1. **Bereavement Leave**

Employees may take up to five consecutive days of unpaid leave in the event of the death of their spouse, parent, guardian, child/child in their care, grandparent, grandchild, sister, brother, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, or brother-in-law. Employees must provide as much notice as possible to their employers that they will be taking this leave.

1. **Court Leave**

Employees are entitled to unpaid leave if they are required to serve on a jury or if the court requires them to appear as a witness. They must provide as much notice as possible to their employer that they will be taking court leave.

1. **Citizenship Ceremony Leave**

Employees may take an unpaid leave of absence for up to one day, or less if the employee so desires, to attend their citizenship ceremony. Employees must, if possible, give their employer 14 days' notice of their intention to take leave. If this is not possible, they must provide reasonable notice. If the employer so requests, the employee must provide proof that they will be attending their citizenship ceremony on a specific date, such as a "Notice to Appear" from Citizenship and Immigration Canada.

No Reprisal

It is illegal to terminate, lay off, or discriminate against an employee who has taken or stated an intention to take—or if the employer believes the employee may take—a leave of absence that the Labour Standards Code requires the employee to be able to take. If a complaint is filed, Labour Standards will conduct an investigation to ascertain the following:

* [Organization Name] has a legitimate reason to terminate or suspend the employee for past behavior and can demonstrate that the behavior was not tolerated in the past;
* there is a labor shortage that the employer could not anticipate or avoid;
* the business has ceased operations, or the employee's job is no longer required and [Organization Name] is unable to provide alternative, reasonable employment. [Organization Name] must establish their good faith.

[Organization Name] will reinstate the employee with full back pay dating back to the date the employee was terminated if Labour Standards determines that said employee was discriminated against because they took a leave or intended to take a leave. [Organization Name] may also implement a reasonable alternative remedy per the Labour Standards if the employee does not wish to return to work.