## PROTECTED LEAVES

[Organization Name] recognizes that qualified employees have the right to take job protected leave without any negative consequences to their employment. As such, [Organization Name] is committed to adhering to the guidelines established by the Yukon *Employment Standards Act* (ESA) 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 ESA 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 ESA.

Protected Leaves:

1. Maternity Leave
2. Parental Leave
3. Sick Leave
4. Bereavement Leave
5. Compassionate Care Leave
6. Leave Related to the Illness of a Child
7. Leave Related to the Illness of an Adult
8. Leave Related to the Death or Disappearance of a Child
9. Domestic or Sexualized Violence Leave
10. Leave of Absence for Reserve Force
11. Voting Leave

Sharing Leave Time

The total amount of leave taken by one or more employees under the ESA in respect of the same family member, child, or event is the entire amount of the leave; the leave is not doubled. Employees who are sharing the leave cannot be on leave at the same time, they must take their leave at different times. The sharing requirement applies only when both employees work for the same employer.

1. **Maternity Leave**

An employee who has been continuously employed at [Organization Name] for at least 12 months is entitled to maternity leave up to a maximum of 17 unpaid weeks.

Employees must request leave in writing at least four weeks in advance. However, if the employee gives birth, or the pregnancy is terminated, or the employee requires a leave of absence because of health problems caused by or associated with the pregnancy before making a request for a leave, the employer shall, on the employee’s request, grant the employee a leave of absence from work, without pay, for a period of 17 consecutive weeks or any shorter period as the employee may request.

Employees may apply for fewer weeks if the employer agrees. The employer may require the employee to take maternity leave any time within the 6 weeks prior to the expected due date. Employers may extend maternity leave beyond the 17 week maximum outlined under the Act.

The employee may return to work any time after the birth of the child provided they have given the employer at least 4 weeks written notice of their intention to do so.

If an employee intends to take parental leave in addition to maternity leave, the employee must begin the parental leave immediately on expiry of the maternity leave without a return to work after expiry of the maternity leave, unless the employer and employee otherwise agree or an applicable agreement otherwise provides.

1. **Parental Leave**

An employee who has completed 12 months of continuous employment with an employer is entitled to parental leave without pay for a period of up to 63 weeks when the employee:

* becomes the birth mother of a child;
* becomes the birth father of a child, or assumes the care and custody of the employee’s newborn child, or of their or their spouse’s newborn or adoptive child; or
* adopts a child under the laws of the Yukon or of a province

The employee must complete the parental leave no later than 78 weeks after the birth or adoption of the child or of the date on which the child comes into the employee’s care and custody.

The employee must provide at least four weeks’ written notice before the start of a parental leave and four weeks’ written notice if they desire to return to work before their leave entitlement has been used up. If an emergency occurs and the parental leave needs to begin immediately, employees are required to provide their notice of the leave at least two weeks after starting the leave.

[Organization Name] will not penalize any employee because the employee is or will be taking either pregnancy or parental leave. Employees who take a pregnancy or parental leave are entitled to return to either their same position or a comparable one, if [Organization Name] has eliminated their previous one.

1. **Sick Leave**

Employees have the right to take unpaid sick leave each calendar year because of personal illness, injury, or medical emergency in the following amount:

* one day without pay for every month the employee has been employed by that employer, less the number of days on which the employee has previously been absent due to illness or injury,
* up to a maximum of twelve days per calendar year.

These sick leave days may not be carried over into another calendar year if they are not used.

As per the ESA, employers may not in any way penalize employees due to that employee’s absence due to illness or injury if the period of absence does not exceed the employee’s entitlement to sick leave.

1. **Bereavement Leave**

Employees are entitled to up to seven days of unpaid leave:

* in the event of the death of a family member, or
* in the event the employee is designated by the family of a deceased member of a First Nation as the person responsible for organizing the funeral potlatch for the deceased.

The definition of a family member used in the Yukon’s ESA is taken from Canada’s [*Employment Insurance Act*](https://www.laws-lois.justice.gc.ca/eng/regulations/SOR-96-332/page-1.html#h-982608), Subsection 1(3):

* (a) the spouse or common-law partner of the individual;
* (b) a child of the individual or a child of the individual’s spouse or common-law partner;
* (c) a parent of the individual or a spouse or common-law partner of the parent;
* (d) a child of the individual’s parent or a child of the spouse or common-law partner of the individual’s parent;
* (e) a grandparent of the individual or of the individual’s spouse or common-law partner or the spouse or common-law partner of the individual’s grandparent;
* (f) a grandchild of the individual or of the individual’s spouse or common-law partner or the spouse or common-law partner of the individual’s grandchild;
* (g) the spouse or common-law partner of the individual’s child or of the child of the individual’s spouse or common-law partner;
* (h) a parent, or the spouse or common-law partner of a parent, of the individual’s spouse or common-law partner;
* (i) the spouse or common-law partner of a child of the individual’s parent or of a child of the spouse or common-law partner of the individual’s parent;
* (j) a child of a parent of the individual’s spouse or common-law partner or a child of the spouse or common-law partner of the parent of the individual’s spouse or common-law partner;
* (k) an uncle or aunt of the individual or of the individual’s spouse or common-law partner or the spouse or common-law partner of the individual’s uncle or aunt;
* (l) a nephew or niece of the individual or of the individual’s spouse or common-law partner or the spouse or common-law partner of the individual’s nephew or niece;
* (m) a current or former foster parent of the individual or of the individual’s spouse or common-law partner;
* (n) a current or former foster child of the individual or the spouse or common-law partner of that child;
* (o) a current or former ward of the individual or of the individual’s spouse or common-law partner;
* (p) a current or former guardian of the individual or the spouse or common-law partner of that guardian;
* (q) a person, whether or not related to the individual by marriage, common-law partnership, or any legal parent-child relationship, whom the individual considers to be like a close relative or who considers the individual to be like a close relative. (*membre de la famille*)

[Organization Name] may request reasonable documentation of the need for the leave such as a death certificate, a funeral home notice, etc.

1. **Compassionate Care Leave**

Every employee is entitled to and shall be granted an unpaid leave of absence from employment of up to 28 weeks to care for or support a family member of the employee if a qualified medical practitioner or qualified nurse practitioner issues a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks from the day the certificate was issued.

The employer may request in writing either before the beginning of the employee’s leave, or within 15 days after the employee returns to work, that the employee provide a copy of the medical certificate.

A leave of absence under section 60 of the ESA may only be taken in periods of not less than one week’s duration. The aggregate amount of leave that may be taken by two or more employees shall not exceed 28 weeks in the period referred.

1. **Leave Related to the Critical Illness of a Child**

An employee who has completed 6 months of continuous employment with an employer and who is a family member of a critically ill child is entitled to a leave of absence from employment without pay for a period of up to 37 weeks in order to care for or support that child. A qualified medical practitioner or qualified nurse practitioner must issue a certificate that states that the child is critically ill and requires the care or support of one or more of their family members, and sets out the period during which the child required that care or support.

The period during which the employee may take a leave of absence related to the critical illness of a child starts on the first day of the week in which the certificate is issued; and ends on the last day of the week in which either the child dies or the after 52 weeks following the first day of the week in which the certificate was issued.

The aggregate amount of leave that may be taken by two or more employees with respect to the came ill child shall not exceed 37 weeks.

An employee who wishes to take this leave of absence must provide their employer with at least two weeks written notice prior to the commencement of the leave, unless the circumstances necessitate a shorter notice period. The certificate from the qualified medical professional must be provided to the employer as soon as possible.

1. **Leave Related to the Illness of an Adult**

An employee is entitled to a leave of absence from employment without pay for a period of up to 17 weeks once the employee has completed six months of continuous employment at [Organization Name]. Employees are entitled to leave related to the illness of an adult when they are a family member of a critically ill adult, require leave to care for or support that adult, and possess a certificate issued by a qualified medical practitioner or qualified nurse practitioner which states that the adult is critically ill. This certificate must also include that the ill adult requires care and support, and the estimated period during which the adult requires care and support.

The period during which the employee may take a leave of absence related to the critical illness of a adult starts on the first day of the week in which the certificate is issued; and ends on the last day of the week in which either the critically ill adult dies or the after 52 weeks following the first day of the week in which the certificate was issued.

The aggregate amount of time which may be taken by two or more employees working for the same employer in respect to the same critically ill adult shall not exceed 17 weeks during the designated leave time.

An employee who wishes to take this leave of absence must provide their employer with at least two weeks notice prior to the commencement of the leave, unless the circumstances necessitate a shorter notice period. The certificate from the qualified medical professional must be provided to the employer as soon as practicable.

1. **Leave Related to the Death or Disappearance of a Child**

An employee who has completed at least six months of continuous employment with [Organization Name] is entitled to a leave of absence from employment without pay for a period of up to 104 weeks if the employee is the parent of a child who has died and it is probable, considering the circumstances, that the child died as a result of a crime.

An employee who has completed at least six months of continuous employment with [Organization Name] is entitled to a leave of absence from employment without pay for a period of up to 52 weeks if the employee is the parent of a child who has disappeared and it is probable, considering the circumstances, that the child disappeared as a result of a crime.

The period during which the employee may take a leave of absence begins on the day on which the death or disappearance, as the case may be, occurs. This period ends 104 weeks after the death occurs, or 52 weeks after the disappearance occurs. Leaves of absence must be no less than one week in length at one time. In the case where the employee is charged with the crime, they are not entitled to a leave of absence.

An employee who wishes to take this leave must provide written notice to the employer at least two weeks before the leave starts, unless the circumstances necessitate a shorter notice period.

The aggregate amount of leave that may be taken by two or more employees with respect to the same child must not exceed 104 weeks for the death of a child, and not exceed 52 weeks for the disappearance of a child.

1. **Domestic or Sexualized Violence Leave**

Employees who are subjected to domestic or sexualized violence, or who witness a family member experience domestic or sexualized violence, are eligible for this leave of absence from employment.

In cases where the employee experiences domestic or sexualized violence, the employee can request a leave of absence to seek medical attention with respect to physical or psychological injury or disability resulting from the domestic or sexualized violence, to obtain services related to the domestic or sexualized violence such as victim services or social services, to seek counselling, to temporarily or permanently relocate, or to seek legal assistance.

Eligible employees are entitled to up to five days of leave without pay in each calendar year, to be taken in units of one or more days or as one continuous period. The employee, after completing three months of continuous employment with [Organization Name], is also entitled to up to 15 weeks of leave without pay and up to five days of leave with pay.

With respect to the five days of paid leave, employers must pay the employee no less than an amount equal to 5% of the employee’s total wages, excluding overtime, for the four-week period preceding the day of leave if the employee works irregular hours or the employee’s wage for regular hours of work varies. In all other cases the employee must be paid an amount equal to their wages had they worked their regular hours of work on the day of leave.

If the domestic violence or sexualized violence experienced by the eligible employee was an act, threatened act, or omission by the employee, that employee is not entitled to a leave of absence.

An employee requesting a leave of absence due to domestic or sexualized violence must give the employer as much notice as reasonable under the circumstances. The employer may require the employee to provide them with a notice of the leave in the form approved by the director. However, this form must not require the employee to provide verification from a third party of the necessity of the leave.

1. **Leave of Absence for Reserve Force**

An employee who is a member of the reserve force and has worked for the company for at least six consecutive months is entitled to an unpaid leave of absence from employment to take part in the following operations or activities:

* an operation in Canada or abroad — including preparation, training, rest or travel from or to the employee’s residence — that is designated by the Minister of National Defence;
* an activity set out in the Regulations;
* annual training for the prescribed period or, if no period is prescribed, for a period of up to 15 days;
* training that they are ordered to take under paragraph 33(2)(a) of the National Defence Act (Canada);
* duties that they are called out on service to perform under paragraph 33(2)(b) of the National Defence Act (Canada);
* service in aid of a civil power for which they are called out under section 275 of the National Defence Act (Canada); or
* treatment, recovery or rehabilitation in respect of a physical or mental health problem that results from service in an operation or activity referred to in this subsection.

The employee is required to provide written notice of the beginning and end date of their leave at least four weeks in advance, where possible. They may be required to provide written documentation to support the need for the leave.

The employee will be reinstated to their same position upon returning from leave. In the event that their position has been eliminated, [Organization Name] will reinstate them to a comparable position.

If the employee does not notify the employer at least four weeks before the day on which the leave that is taken for the reserve force is to end, the employer may postpone the employee’s return to work for a period of up to four weeks after the day on which the employee informs the employer of the end date of the leave. If the employer informs the employee that their return to work is postponed, the employee is not entitled to return to work until the day that is indicated by the employer.

1. **Voting Leave**

As per the Yukon Elections Act, an employee who is a qualified elector shall, while the polls are open on polling day at an election, have four consecutive hours for the purpose of voting.

Should [Organization Name]’s hours not allow for four consecutive hours to vote, the organization shall permit any additional time for voting that may be necessary for the employee, but the additional time for voting shall be granted at the convenience of the employer.