## PROTECTED LEAVES

[Organization Name] respects qualified employees' right to take job-protected leave without fear of disciplinary action. As a result, [Organization Name] is committed to adhering to the Prince Edward Island Employment Standards Act's job-protected leave guidelines.

1. Maternity/Parental/Adoption Leave
2. Family Leave
3. Leave for Care of a Critically Ill Child
4. Leave for Crime Related Disappearance or Death of a Child
5. Sick Leave
6. Compassionate Care Leave
7. Bereavement Leave (Death in the Family)
8. Reservists Leave (Military Service)
9. Court Leave
10. Domestic Violence, Intimate Partner or Sexual Violence Leave
11. Emergency Leave

POLICY

Eligible employees of [Organization Name] that are entitled to leaves will be reinstated in the same or comparable position upon their return with no loss of seniority, benefits or pay.

BENEFITS (if applicable)

[Organization Name] may not maintain any benefits during any legislated leave of absence with the exception of providing the employee ten (10) days’ notice in writing to continue participating in an employee-shared benefit plans that are under: Maternity Leave, Parental Leave, Critically Ill Child Leave, Crime Related Disappearance or Death of a Child Leave, and Compassionate Care Leave.

Pension will not be continued under the Maternity, Parental or Adoption Leave, or Reservist Leave.

The ten (10) day notice will be provided in writing prior to the employee commencing their leave, if possible.

1. **Maternity/Parental/Adoption Leave**

Employees of [Organization Name] are eligible to request a leave of absence from work to care for a newborn or newly adopted child if they have worked for the current employer for at least 20 weeks in the 52 weeks preceding your leave.

Employees must provide [Organization Name] with at least four weeks written notice, in writing, indicating both the intended leave date and anticipated return to work.

Maternity and parental leave combined cannot exceed 78 weeks and must be taken consecutively unless the employer and employee agree otherwise. Parental leave cannot exceed 62 weeks.

An employee who is pregnant and has worked for [Organization Name] is eligible for up to 17 weeks of unpaid leave, which can begin as early as 13 weeks prior to the expected date of delivery.

[Organization Name] may require a certificate from a physician certifying that the employee is pregnant and stating the expected date of birth.

Employees who have worked for [Organization Name] for at least 20 weeks are eligible for up to 62 weeks of unpaid parental leave to care for a newborn.

Employees who have worked for [Organization Name] for at least 20 weeks are eligible to take up to 62 weeks of leave to care for an adopted child. Combined adoption leave cannot exceed 78 weeks for both parents and must be taken within 12 months of the child's arrival in the home.

An employee may extend leave for an additional five (5) consecutive weeks if their child requires additional parental care due to a physical, psychological, or emotional condition. This additional leave must begin immediately after the maternity, parental, or adoption leave has ended.

The employee may return to work, and [Organization Name] may permit the employee to return sooner than six weeks after the actual delivery.

An employee acting in the capacity of a foster parent is not entitled to this leave.

1. **Family Leave**

An employee who has worked for [Organization Name] for six months in a row may take up to three days of unpaid leave during a twelve-month period to attend to immediate and extended family responsibilities.

Immediate family member:

* spouse
* child
* parent
* brother or sister

Extended family member:

* grandparent
* grandchild
* aunt/uncle
* brother-in-law/sister-in-law
* mother-in-law/father-in-law
* son-in-law/daughter-in-law

Employees intending to take family leave must notify [Organization Name] of their intent to take the leave, the date on which the leave will begin, and the anticipated duration of the leave.

1. **Leave for Care of a Critically Ill Child**

An employee is entitled to take an unpaid leave of absence for up to 37 weeks during a 52-week period to care for and support a critically ill child. A critically ill child is a child under the age of 18 whose life is in danger due to an illness or injury.

To qualify for the leave, an employee must be:

1. employed by the same employer for a continuous period of at least three months; and
2. a parent of the child. A parent may be an adoptive or foster parent; a guardian; or the spouse of a child's parent.

Within the 52-week period, an employee must take a leave of absence in intervals of at least one week.

The leave begins on the first day of the workweek when either:

1. a physician issues a certificate regarding the critically ill child; or
2. the employee initiates the leave prior to the physician issuing the certificate.

The leave period ends when the child dies or the employee has taken 37 weeks of leave in a 52-week period.

When an employee is the parent of two or more critically ill children, the leave begins on the first day of the workweek when either:

1. a physician issues a certificate regarding the critically ill child; or
2. the employee begins the leave prior to the physician issuing the certificate.

The leave period ends when the last critically ill child dies or the employee has taken 37 weeks of leave in a 52-week period.

Two or more employees cannot take more than 37 weeks of unpaid leave in total.

[Organization Name] may require an employee to provide a copy of the medical certificate. As such, when an employee returns to work following a leave of absence, they must be reinstated in the same or a comparable position without loss of wages or benefits.

1. **Leave for Crime Related Disappearance or Death of a Child**

If an employee's child goes missing as a probable result of a crime, the employee is entitled to an unpaid leave of absence of up to 52 weeks. If an employee's child is likely to die as a result of a crime, the employee is entitled to up to 104 weeks of unpaid leave. A child is anyone under the age of 18 years.

To qualify for the leave, an employee must be:

1. employed by the same employer for a continuous period of at least three months; and
2. a parent of the child. A parent may be an adoptive or foster parent; a guardian; or the spouse of a child's parent.

The leave begins on the first day of the workweek when the child either goes missing or dies as a result of a crime. The employee must take a leave of at least a week’s interval. Employees are not entitled to this leave if they are charged with a crime relating to their child's disappearance or death.

In the event of a child's disappearance, the leave will terminate on the last workday of the following week:

1. Fourteen days have passed since the child was discovered alive;
2. At least 14 days have passed since circumstances changed, making it less likely that the child's disappearance was the result of a crime;
3. 52 weeks have passed since the child vanished on the first day of the workweek; or
4. the child is discovered to be dead.

In the event of the child's death, the leave will terminate on the last day of the workweek following the following:

1. 14 days have passed since circumstances changed to the point where it is no longer likely the child's death was the result of a crime; or
2. 104 weeks have passed since the child was discovered dead on the first day of the workweek.

The total amount of unpaid leave taken by two or more employees cannot exceed 52 weeks in the case of a missing child or 104 weeks in the case of a deceased child.

When an employee returns to work following a leave of absence, they must be reinstated in the same or a comparable position without loss of wages or benefits.

[Organization Name] may require an employee to provide reasonable documentation demonstrating entitlement to the leave.

1. **Sick Leave**

After three months of continuous service with [Organization Name], an employee is entitled to unpaid sick leave of up to three days per year. [Organization Name] may request a medical certificate if an employee is absent for three consecutive days.

Employees with more than five years of continuous service with [Organization Name] are entitled to one day of paid sick leave and up to three days of unpaid sick leave per calendar year.

1. **Compassionate Care Leave**

An employee may take up to 28 weeks of unpaid leave to care for and support a family member who has been diagnosed with a serious medical condition that carries a significant risk of death within 26 weeks. The family unit consists of the following:

* a member of the immediate family of the employee,
* a member of the extended family of the employee,
* a niece, nephew, foster parent, ward or guardian of the employee,
* any person who the employee considers to be like a person described in the first three points
* and any other person who is a member of a class of persons that are prescribed to be family members by law

An unpaid leave of absence begins on the first day of the workweek for which the certificate was issued, or on the first day of the workweek for which the leave was commenced prior to the certificate being issued.

When [Organization Name] requests it in writing, the employee must provide a certificate within 15 days of an employee's return to work.

1. **Bereavement Leave (Death in the Family)**

Employees are entitled to one day of paid bereavement leave and up to two days of unpaid bereavement leave in the event of the death of an immediate family member. The immediate family consists of the following:

* spouse
* child
* parent
* brother or sister of the employee

Employees are entitled to three days of unpaid bereavement leave in the event of the death of a member of their extended family. The extended family consists of the following:

* grandparent
* grandchild
* brother-in-law or sister-in-law
* mother-in-law or father-in-law
* son-in-law or daughter-in-law
* aunt or uncle of the employee

An employee may take bereavement leave only during the period of bereavement and, if the employee wishes to take such a leave, the employee must begin the leave no later than the day of the funeral or memorial service for the deceased member of the employee's immediate or extended family.

1. **Reservists Leave (Military Service)**

Employees who are also members of the Canadian Forces Reserves are entitled to an unpaid leave of absence if the employee meets the following criteria:

* has worked for [Organization Name] for a minimum of six consecutive months; and
* is required to be away from work for training or active duty.

An employee must give [Organization Name] as much notice as is reasonably possible under the circumstances, including the anticipated start and end dates of leaves. Notifications must be in writing.

If requested by [Organization Name], the employee must provide documentation of the employee's need for and duration of the period of service for training or active duty.

When an employee returns from reserve duty, they must be reinstated in the same or a comparable position without loss of seniority or benefits.

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. An employee must be granted an unpaid leave of absence if they have been summoned or selected to serve on a jury or is required to appear as a witness at a hearing, application, or proceeding.

1. **Domestic Violence, Intimate Partner or Sexual Violence Leave**

Effective November 1, 2019, this leave provides employees with up to three days of paid leave and an additional seven days of unpaid leave per year to address the effects of domestic violence, intimate partner violence, or sexual violence. An employee may take this leave intermittently (as needed) or in its entirety.

This leave is available to employees who are covered by the Employment Standards Act of Prince Edward Island.

Three months of continuous employment with [Organization Name] is required to qualify for this leave.

A victim of domestic violence, intimate partner violence, or sexual violence may take leave for one or more specified purposes.

Additionally, an employee may use the leave to accompany a minor child or another individual for whom they are the primary caregiver to one or more of the specified activities.

The employee may use the leave to accomplish one or more of the following:

* to obtain medical care for a victim who has sustained a physical or psychological injury or disability as a result of domestic violence, intimate partner violence, or sexual violence
* to enlist the assistance of a victim services organization
* to seek psychological or other professional counselling in connection with or as a result of domestic violence, intimate partner violence, or sexual violence
* to temporarily or permanently relocate as a result of or in response to domestic violence, intimate partner violence, or sexual violence
* to seek legal or law enforcement assistance, including preparing for or participating in any civil or criminal legal proceeding arising out of domestic violence, intimate partner violence, or sexual violence.
* to adhere to child protection interventions and to participate in case planning or related activities involving children
* for any other purpose connected with or resulting from domestic violence, intimate partner violence, or sexual violence that requires the employee's attendance during their regularly scheduled workday.

The employee must notify [Organization Name] in advance of the intent to take leave. The employee must notify [Organization Name] of the start date and duration of their leave.

[Organization Name] may request written documentation establishing the employee's need for leave. Employees are required to cooperate in obtaining written evidence.

1. **Emergency Leave**

This new leave is retroactive to March 16, 2020, the date on which Prince Edward Island declared a Public Health Emergency in response to COVID-19.

This is an unpaid leave of absence from work that lasts as long as the employee is unable to perform their job duties due to an emergency. This leave is available only when a government agency declares an emergency as a result of severe weather, a natural disaster, a public health emergency, or another occurrence. Personal emergencies or illnesses that are not part of a declared emergency are not covered by the leave.

The term "emergency" is broad in scope and refers to situations declared by the government. This leave is not available to employees who are experiencing a personal emergency that is not related to a declared emergency.

Emergencies include the following:

* A state of emergency under the Emergency Measures Act
* A public health emergency under the Public Health Act
* A direction or order of a public health official or the Chief Public Health Officer prevents the employee from attending work
* An emergency or quarantine under the federal Emergencies Act or Quarantine Act
* Additional situations can be defined as an emergency through regulations under the Employment Standards Act

This leave is for employees who are unable to work as a result of a government-declared emergency or as a result of a Chief Public Health Officer's order.

Employees may take this leave, for example, if they are required to self-isolate for two weeks following travel outside the province. Additionally, employees may use this leave if they become ill as a result of COVID-19.

[Organization Name] may also require an employee to take leave if they believe the employee may have contracted a communicable disease, such as COVID-19, and are concerned the employee may infect other workers.

Additionally, employees who must care for a family member who is directly impacted by an emergency are eligible for the leave. To qualify, the employee must be unable to perform their job and be the only person reasonably available to provide care in the circumstances.

If an employee is unable to return to work due to restrictions imposed by the Chief Public Health Office on schools or childcare centres, they may be able to use this leave. Employees who are required to care for an adult may also be eligible. To qualify for leave for family emergencies, the following conditions must be met:

* A declaration, direction, order, or other circumstance directly affects an employee's family member.
* The employee's family member requires care or assistance.
* The employee is the only reasonably accessible person to provide care or assistance.
* Providing care or assistance impairs the employee's ability to perform their job duties.

Emergency leave is terminated when:

* the employee is no longer unable to work due to the emergency, or
* the employee is no longer needs to care for a family member affected by the emergency, or
* the emergency is resolved.

Employees are expected to return to work if they are able to do so before the Public Health Emergency or the State of Emergency is lifted. If the employee has concerns about returning to work, they should discuss them with their employer, as well as the safety measures in place in the workplace.

[Organization Name] may return employees to work if they follow the Chief Public Health Office's directions and guidance. For instance, employees who provide critical services may be required to report to work in the event of an emergency.

In some instances, an employee may be able to work from home during an emergency. In other cases, [Organization Name] can implement safety measures that allow them to operate within the guidelines established by the Chief Public Health Office.

When the emergency leave period expires, employees must resume their previous position. Where an employee's original position is no longer available, the employer is responsible for placing them in a comparable position with comparable pay and benefits.

An employee must notify their employer as soon as possible of their intention to use this leave. If so, notice should be given prior to the start of the leave. If this is not possible, the notice should be given as soon as possible following the start of the emergency leave.

[Organization Name] may request documentation demonstrating the employee's need for leave. The evidence must be reasonable in light of the circumstances, and an employer cannot require an employee to present a medical certificate in order to take this leave.