

## Maternity Leave

Maternity leave gives expectant mothers the opportunity to take unpaid leave from work, without the fear of job loss.

### What is the difference between maternity leave and parental leave?

Maternity Leave is an unpaid leave, taken by mothers near the end of a pregnancy or immediately afterwards.

Parental Leave is taken by fathers and mothers to care for a child after birth or adoption.

### Who qualifies for maternity leave?

Employees who have worked with the same employer for at least seven consecutive months and are expecting to give birth to a child are entitled to take maternity leave.

### How long is maternity leave?

The leave is up to 17 weeks long.

### Do employees get paid when on leave?

No. Employers are not required to pay wages to employees while on leave. For all leaves, the legislation only requires employers to provide the time off and allow employees to return to their job when the leave has ended. Employers can, and often do, give greater benefits than those provided for in the legislation.

However, other federal programs may provide income replacement. Employees should contact the federal government to find out what types of leaves have income replacement.

The only exceptions under *The Employment Standards Code* where an employer is required to pay a portion of a leave is under the Domestic Violence Leave and the COVID-19 Vaccination Leave.

## **Are there programs to pay employees while on leave?**

The federal government has income support programs to cover certain types of leave. To learn more, call Service Canada toll-free at 1 800 O-Canada (1-800-622-6232).

## **When can an employee start her maternity leave?**

Maternity leave can begin up to 17 weeks before the expected date of the birth.

## **When must employees end maternity leave?**

Generally, the leave will end 17 weeks after it began. The latest that a leave can last is 17 weeks after the birth.

## **What if employees have started their leave and the birth is after the expected due date?**

Employees are entitled to more maternity leave equal to the number of days between the expected date and the birth. For example, if the birth is 14 days after the estimated date of delivery, the mother would receive an additional 14 days of maternity leave.

## **How do employees start the maternity leave?**

Employees requesting maternity leave must give their employers at least four weeks' written notice before the leave. They must also provide a medical certificate indicating the estimated date of delivery.

## **What if employees do not give the required notice?**

Expectant mothers are still entitled to maternity leave if they fail to give four weeks written notice. Within two weeks of stopping work, employers must receive a medical certificate stating the expected date of delivery and noting any dates employees were unable to work because of the pregnancy in the 17 weeks before the expected date of birth. This time missed from work can be included in the maternity leave.

## **Who decides what type of leave an employee is taking?**

Employees tell their employers the reason they require a leave. The employer will need enough detail to show the time off work meets the requirements of the leave.

When employees require time off, the employer should ask whether they are advising of a leave available under The Employment Standards Code. Employers do not control when employees can take a leave provided by law, but they do control other types of time off work.

## **What happens when maternity leave ends?**

Employees, who have taken maternity leave and also wish to take parental leave, must do so immediately following the maternity leave, unless the employer agrees to a different arrangement.

## **How do employees start parental leave after maternity leave?**

Employees wanting to take parental leave must give employers notice in writing at least four weeks before the leave. More information can be found on the [Parental Leave](#) fact sheet.

## **What if employees want to end their Maternity or Parental Leave early?**

Employees who want to return to work before their leave has ended must give their employers notice in writing, at least two weeks or one pay period, whichever is longer, before returning to work.

## **What if the employee's job is no longer available?**

Generally, employees should be returned to the job they had before the leave. However, if the job is no longer available, they must be given a similar position with the same or greater benefits and pay.

There may be some situations where employers do not have a position available for reasons completely unrelated to the leave. For example, employees who are on unpaid leave would not necessarily be protected from losing their jobs if the employer shut down part of their operations and reduced their workforce based on a seniority system.

Employers must show the leave has no impact on the decision to lay-off or terminate the employment.

## **What if the employer refuses to bring the employee back to work?**

Employees must be allowed to return to their job, or a comparable job, with the same or greater pay and benefits when they return from leave. Employees who are not reinstated by their employer can file a complaint with Employment Standards no later than six months after the date the employee should have been reinstated.

## **How does an unpaid leave affect...**

- Termination?

When it comes to how much notice an employer or an employee has to give upon termination, the amount of time spent on the leave has to be included in determining the length of service. See the [Termination of Employment](#) fact sheet for more details.

- Vacation?

The leave does not affect the amount of vacation time an employee is entitled to, as the time spent on leave is included in the employee's length of service. However, since vacation pay is a percentage of wages earned, the leave will affect the vacation pay. See the [Vacations & Vacation Pay](#) fact sheet for more details.

## **What happens to pension and other benefits while an employee is on leave?**

Employment is considered continuous during a legislated leave of absence from work. This means an employee is still employed, though not earning wages for the period of the leave. When employees return from the leave, they are still entitled to any pension and other benefits they had before the leave. As well, their years of service include the time away on the leave.

## **Will the information about the leave be confidential?**

Unless it is required by law or the employee has given consent, employers cannot disclose information related to a leave except to other persons in the workplace, who need to know in order to carry out their duties.

## What is a period of employment?

The period of employment is the length of time from when an employee starts working for an employer until the day the employment ends.

The period of employment also includes periods of temporary interruption in employment (a layoff, an unpaid leave), seasonal employment, and when an employee returns to work for the same employer after a break of less than two months.

Employees who work in a seasonal industry and return to work with the same employer each season have continuous service. Each consecutive season they return adds one more year of service to their total period of employment.

### Layoffs and Periods of Employment

It is important to know how to determine an employee's period of employment because wages in lieu of notice is based on their length of employment.

When layoffs are longer than 8 weeks in a 16-week period, they become terminations and wages in lieu of notice is required. The employment is deemed to have been terminated without notice on the first day of the layoff.

The actual date on which a layoff began does not change because a state of emergency is declared or a state of emergency ends. For example:

- If an employee was laid off on February 18, 2020 and the layoff eventually became a termination, the period of employment will be deemed to have ended on February 18, 2020.
- However, if an employee was laid off on July 8, 2020 and the layoff eventually became a termination, the period of employment will be deemed to have ended on July 8, 2020.

### For more information contact Employment Standards:

Phone: 204-945-3352 or toll free in Canada 1-800-821-4307

Fax: 204-948-3046

Website: [www.manitoba.ca/labour/standards](http://www.manitoba.ca/labour/standards)

This is a general overview and the information used is subject to change. For detailed information, please refer to current legislation including The Employment Standards Code, The Construction Industry Wages Act, The Worker Recruitment and Protection Act, or contact Employment Standards.

**Available in alternate formats  
upon request.**

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