



Maternity Leave and Child Care Leave

1. Who qualifies for maternity leave?

Any pregnant employee is entitled to maternity leave.

2. What is the maximum duration of maternity leave, and when must it be taken?

Maternity leave is up to seventeen (17) weeks of unpaid leave, and it must begin no earlier than thirteen (13) weeks before the probable delivery date.

3. Does an employer have to pay for a maternity leave or a child care leave?

No, an employer is only required to allow an employee to take a leave of absence without pay for maternity or child care. Employers can offer greater benefits than those provided for in the *Employment Standards Act*.

4. Does an employee have other options for compensation while on maternity leave or child care leave?

Yes. The government of Canada offers a program under Employment Insurance that covers certain leaves.

5. Is an employee required to give notice of maternity leave?

Yes, a pregnant employee who wishes to take maternity leave must;

- a) advise her employer four months prior to her expected delivery date or as soon as her pregnancy is confirmed, whichever is later; and
- b) provide her employer with a medical doctor's certificate confirming pregnancy and the probable delivery date; or
- c) in the absence of an emergency, give her employer two weeks' notice prior to commencing her maternity leave.

6. Can an employer require an employee to begin a leave of absence when her work is affected by her pregnancy?

Yes, an employer may require a pregnant employee to begin a leave of absence without pay when she can no longer reasonably perform her duties or the performance of her work is materially affected by her pregnancy. Any employer imposed leave of absence would be in addition to any maternity leave the employee is entitled to under the *Employment Standards Act*. Therefore, the maternity leave is not affected by the employer imposed leave.

7. Can an employer dismiss, suspend or lay-off an employee, or refuse to employ a person because she is pregnant?

No. An employer cannot dismiss, suspend or lay-off or refuse to employ a person because she is pregnant.

8. How does a leave of absence affect an employee's employment status?

An employee continues to accumulate seniority during a leave of absence; therefore, the employee's employment status is not affected.

Child Care Leave

1. Who qualifies for child care leave?

All parents, natural or adoptive, are entitled to child care leave.

2. What is the maximum duration of child care leave?

Child care leave is up to sixty-two (62) consecutive weeks of unpaid leave.

3. Can either parent take child care leave, and can child care leave be shared?

Yes, either parent of a newborn or adopted child is entitled to take child care leave. Child care leave may be shared by parents; however, regardless of how it is divided, the leave cannot exceed a total of sixty-two (62) weeks.

Furthermore, unless otherwise agreed to by the employer and the employee, where maternity leave and child care leave are taken by the same employee, the leaves must be taken in a consecutive manner.

4. When can an employee begin child care leave?

Child care leave can begin no sooner than on the day a newborn or adopted child comes into the care and custody of the employee.

5. What is the maximum combined duration of maternity leave and child care leave?

The maximum combined duration is seventy-eight (78) weeks.

6. What happens when a leave of absence ends?

When an employee completes a leave of absence, the employee must be able to return to the job he/she held immediately before taking the leave or to a comparable job with no decrease in benefits or pay.

7. Can an employee be dismissed while on a leave of absence?

No, an employee may not be dismissed from his/her job while on a leave of absence for any reason arising from, or due to, the leave.

8. How does a leave of absence affect an employee's employment status?

An employee continues to accumulate seniority during a leave of absence; therefore, the employee's employment status is not affected.

9. Is an employee required to give notice of child care leave?

Yes, an employee who is or will be a natural parent intending to take this leave shall:

- d) provide the employer with a medical doctor's certificate specifying the probable date of delivery or the date upon which the birth has occurred, and
- e) in the absence of an emergency, give four weeks written notice to the employer of the commencement date and duration of the leave.

An employee who is an adoptive parent intending to that this leave shall:

- f) provide the employer with proof that a child has been or will be placed with the employee for the purpose of adopting.
- g) notify the employer of the commencement date and duration of the leave on being made aware of the date of placement with the employee for adoption, and
- h) in the absence of an emergency, give four months notice to the employer before the anticipated day on which a child will come into the employee's care and custody.