



2019 Legislative Update

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Let's talk about leave

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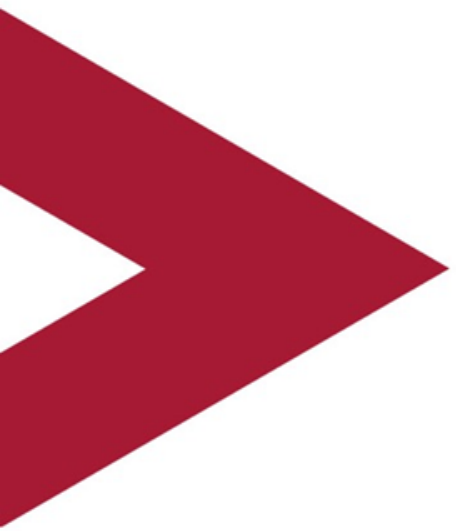


"Gosh, I've been so busy lately, I didn't even notice that I gave birth last week!"



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"The board wants to know if this is coming off your conference time or your vacation."



Provincial Update

New Brunswick

Provincial update: Domestic violence leave

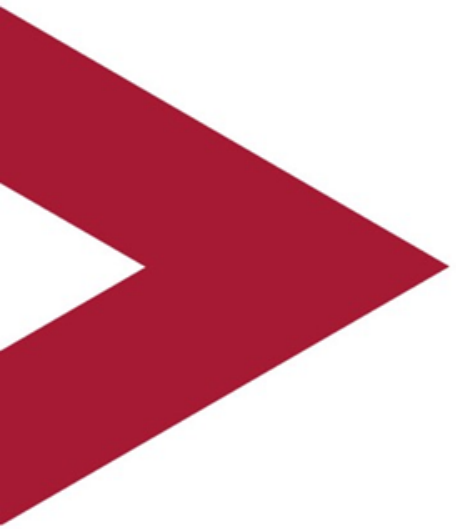
- Domestic Violence leave extended under the ESA - Domestic Violence, Intimate Partner Violence or Sexual Violence Leave Regulation.
- Leave of up to 10 days to be used intermittently or continuously for up to 16 weeks.
- The first 5 days of this leave are paid and the balance of the leave is unpaid.
- To be eligible, the employee must have been employed with the employer for more than 90 days and the leave must be taken for a specific purpose set out in the Act.

Provincial update: Critical illness leave

- Critically Ill Child Leave may now be taken by “family members” rather than only “parents” for a maximum of 37 weeks.
- Critically Ill Adult Leave was introduced into the ESA and allows family members to take up to 16 weeks to care for a critically ill adult (18+).

Provincial update: Parental leave

- Aligns with the changes to federal legislation regarding maternity and paternity leave.
- Maternity leave may now be taken up to 13 weeks before the expected due date and the employee may be granted up to a total of 17 weeks' leave.
- Parental leave can now be taken for up to a total of 62 weeks but must be taken within the first 78 weeks after the birth/adoption date.
- The total amount of time that may be taken by one or two employees for maternity and parental leave for the same birth has been extended from a maximum of 52 weeks to a maximum of 78 weeks.



Federal Update

Federal Update: Bill 86

- Breaks and rest periods;
- Minimum age;
- Leave;
- Vacation and holiday pay;
- Notice of work schedule;
- Group terminations;
- Notice periods;
- Unjust dismissal;
- Pay equity; and,
- Compliance and enforcement.

Federal update: Canada Labour Code

- Personal Responsibility Leave
- Medical Leave
- Victims of Family Violence Leave
- Court or Jury Duty Leave
- Vacation Pay and Holiday Pay

Personal responsibility leave

- 5 days, the first 3 days paid after three months of continuous employment
- New personal leave for: illness, injury, family responsibility, urgent matters, citizenship and “education of any family member under 18”.

Medical leave

- Now up to 17 weeks.
- Supporting documentation no longer required to come from a 'qualified medical practitioner', now a 'health care practitioner' is sufficient.
- Medical leave will include organ or tissue donation, and medical appointments during work hours.
- Employees will continue to accumulate pension, health and disability benefits and seniority during medical leave.

Victims of family violence leave

- 5 days paid leave.
- First 5 days of leave for victims of family violence will be paid after three months of continuous employment.

Court or Jury Duty leave

- Indefinite.
- Entitled to an unpaid leave of absence to attend court to appear as witness, act as juror or participate in jury selection process.
- No limitation on the length or frequency of these leaves.

Vacation pay and holiday pay

- Continuous service timelines shortened for larger entitlements to vacation or pay in lieu:
 - 1 year – 2 weeks (or 4%)
 - 5 years – 3 weeks (or 6%)
 - 10 years – 4 weeks (or 8%)

Vacation pay and holiday pay

- No more 30 day exclusion period for vacation at the beginning of employment.
- Holiday pay must be at least equal to 1/20th of the employee's wages (excluding overtime earnings) for the four-week period immediately preceding the week in which the holiday occurs.

Minimum length of service

- No longer a requirement of minimum service to qualify for the following types of leave:
 - sick leave;
 - maternity leave;
 - parental leave;
 - leave related to critical illness;
 - holiday pay; or,
 - leave related to death or disappearance of a child.



These materials are intended to provide brief informational summaries of legal developments and topics of general interest.

The materials should not be relied upon as a substrate for consultation with a lawyer with respect to the reader's specific circumstances. Each legal or regulatory situation is different and requires review of the relevant facts and applicable law.

If you have specific questions related to these materials or their application to you, you are encouraged to consult a member of our firm to discuss your need for specific legal advice relating to the particular circumstances of your situation.

Due to the rapidly changing nature of the law, Stewart McKelvey is not responsible for informing you of future legal developments.