

COVID-19 and Public Health Emergency Leave Rights Across Canada



13 jurisdictions have adopted unpaid leave to protect the jobs of employees who can't work due to COVID-19

Employees who get infected, go into self-isolation, get stuck at home caring for family members or otherwise miss work due to COVID are entitled to unpaid leave in all but 1 jurisdictions (Nunavut). Unlike other unpaid employment standards leave, all employees qualify for COVID leave regardless of how long they've been employed. And while they must provide reasonable verification, they don't have to give employers a doctor's note to verify their need for leave. Where COVID-19 leave rules differ is with regard to:

- Leave triggers, especially with regard to whether missing work due to travel restrictions or orders to self-isolate by their employers are grounds for leave;
- How long leave can last; and
- Whether leave is just a temporary provision for COVID or a permanent part of employment standards laws that applies for other public health emergencies that may be declared in the future; and
- Whether they're supplemented with paid vaccination and sick days.

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FEDERAL (*Canada Labour Code*, Sec. 239.01)

Scope: Applies only to COVID-19, not other future public health emergencies

Entitlement: Up to 4 weeks if employees: (i) get or might have gotten COVID; (ii) have underlying conditions, are undergoing treatments or have contracted other sicknesses that, in the opinion of a medical practitioner, nurse practitioner, person in authority, government or public health authority, would make them more susceptible to COVID; or (iii) self-isolate on advice of their employer, a medical practitioner, nurse practitioner, person in authority, government or public health authority for reasons related to COVID

Up to 38 weeks if employees must care for: (i) a child under age 12 because: (A) the school or other facility that the child normally attends is closed or limited in hours due to COVID; (B) the child can't attend the school or facility because the child: (I) got or might have gotten COVID, (II) is in isolation on the advice of a medical practitioner, nurse practitioner, person in authority, government or public health authority for reasons due to COVID, or (III) would, in the opinion of a medical practitioner or nurse practitioner, be at risk of having serious health complications if the child contracted COVID, or (C) the person who usually cares for the child is unavailable due to COVID; or (ii) a family member who requires supervised care because (A) the day program or facility that the family member normally attends is closed or limited in hours due to COVID, (B) the family member can't attend the day program or facility because he/she: (I) got or might have gotten COVID, (II) is in isolation on the advice of their employer, a medical practitioner, nurse practitioner, person in authority, government or public health authority for reasons related to COVID, or (III) would, in the opinion of a medical practitioner or nurse practitioner, be at risk of having serious health complications if he/she got COVID, or (C) the care services that are normally provided to the family member at their place of residence are unavailable due to COVID

Duration: Until officially repealed

Paid Vaccination Leave: None

Paid Sick Leave: None

ALBERTA (Employment Standards (COVID-19 Leave) Regulation)

Scope: Applies only to COVID-19, not to other future public health emergencies

Entitlement: 1. Up to 14 days if employee in quarantine; and 2. As long as necessary to meet employee's family responsibilities if: (a) a family member under quarantine due to COVID, or (b) a child can't attend school or child care services due to Chief Medical Officer's COVID recommendations or directions

Duration: March 5, 2020 to August 14, 2021

Paid Vaccination Leave: Up to 6 hours (3 hours per dose)

Paid Sick Leave: None

BRITISH COLUMBIA (*Employment Standards Act*, Sec. 52.12)

Scope: Unpaid leave applies only to COVID-19, but paid sick leave applies to any illnesses effective January 1, 2022

Entitlement: As long as necessary if: (a) the employee is diagnosed with COVID-19 and acts in accordance with (i) instructions or an order of a medical health officer, or (ii) advice of a medical practitioner, nurse practitioner or registered nurse; (b) the employee is in quarantine or self-isolation in accordance with (i) an order of the provincial health officer, (ii) an order under the *Quarantine Act* (Canada), (iii) guidelines of the British Columbia Centre for Disease Control, or (iv) guidelines of the Public Health Agency of Canada; (c) the employer directs the employee not to work to prevent exposure to others; (d) the employee is providing care to an eligible person, including

because of the closure of a school or daycare or similar facility; (e) the employee is outside the province and can't return to BC

Duration: January 27, 2020 until officially repealed

Paid Vaccination Leave: Up to 6 hours (3 hours per dose)

Paid Sick Leave: Up to 3 non-consecutive days from May 20 to December 31, 2021, if employee doesn't already have paid sick leave thru employer, insurance or collective agreement; BC government reimburses employers up to \$200 per day per worker; To be replaced by permanent paid sick leave for any illness starting January 1, 2022, but only for employees with at least 90 consecutive days of employment (ESA, Secs. 49.1 & 52.121)

MANITOBA (*Employment Standards Code*, Sec. 52.12)

Scope: Applies to COVID-19, not other future public health emergencies

Entitlement: As long as necessary if the employee: (a) Is under medical investigation, supervision or treatment; (b) The employee, as a result of a government health order or guidelines: (i) is required to quarantine or self-isolate themselves, or (ii) is subject to self-isolation or any other measure that results in their inability to work; (b.1) Is, in the opinion of a health officer or health professional, or according to government information or directions, more susceptible to COVID because he/she (i) has an underlying medical condition, (ii) is undergoing medical treatment, or (iii) has contracted another illness; (b.2) Is absent from work due to side effects from being vaccinated against COVID; (c) Is directed by the employer not to work, due to the employer's concern about the employee's exposure to others; (d) Is providing care or support to a family member, including care or support needed to be provided as a result of the closure of a school or premises where child care is provided; (e) Is directly affected by travel restrictions and can't reasonably be expected to travel to workplace

Duration: March 1, 2020 until officially repealed

Paid Vaccination Leave: Up to 6 hours (3 hours per dose) (ESC, Sec. 52.13)

Paid Sick Leave: Not required by ESC but subsidies available under Manitoba Pandemic Sick Leave program for up to 5 non-consecutive days if employee doesn't already have paid sick leave thru employer, insurance or collective agreement; Manitoba government reimburses employers up to \$600 per day per worker; Covers days missed from May 7 to September 25, 2021

NEW BRUNSWICK (*Employment Standards Act*, Sec. 44.028 and *COVID-19 Emergency Leave Regulation*)

Scope: Applies to any public health emergency, including but not limited to COVID-19

Entitlement: As long as necessary if the employee is: (a) Under individual medical investigation, supervision or treatment related to COVID; (b) Following a public health order related to COVID;

(c) In quarantine or isolation or subject to a government control measure

related to COVID; (d) Directed by his/her employer not to work due to employer's concern that employee may expose others in workplace to COVID; (e) Providing care or support to an individual with whom employee shares a close family relationship because of a matter related to COVID that concerns that individual, including school or early learning and childcare facility closures; and (f) Directly affected by COVID travel restrictions and, under the circumstances, can't reasonably be expected to travel back to New-Brunswick

Duration: March 12, 2020 until public health emergency ends; employee on COVID leave when public health emergency ends may continue leave by providing written notice to employer

Paid Vaccination Leave: None

Paid Sick Leave: None

NEWFOUNDLAND (*Labour Standards Act, Sec. 43.39*)

Scope: Applies to any public emergency involving a communicable disease, including but not limited to COVID-19

Entitlement: As long as necessary if the employee is: (a) Under individual medical investigation, supervision or treatment related to a designated communicable disease (DCD); (b) Is acting in accordance with public health order related to DCD; (c) In isolation or quarantine or subject to a government control measure related to DCD; (d) Directed by his/her employer not to work due to employer's concern he/she will expose other in workplace to DCD; (e) Providing care or support to an individual referred to in subsection (4) of Act for a reason related to DCD, including a school or child care service closure; (f) Directly affected by travel restrictions related to DCD and, under the circumstances can't reasonably be expected to travel back to the province

Duration: March 14, 2020 until COVID public health emergency remains in effect; after that, for as long as any other DCD public health emergency is in effect retroactive to date specified in regulation

Paid Vaccination Leave: None

Paid Sick Leave: None

NOVA SCOTIA (*Labour Standards Code, Sec. 60I*)

Scope: Applies to any public health emergency that prevents an employee from performing their work duties, including but not limited to COVID-19

Entitlement: As long as necessary for as long as the emergency continues and the employee can't perform his/her work duties because of a public health order; an emergency also includes such a circumstance that applies to a family member of an employee, whether directly or in such a way as to require the family member to be in need of care and assistance and the employee is the only person reasonably able under the circumstances to provide it

Duration: For as long as COVID public health emergency remains in effect; after that, for as long as any other public health emergency is in effect retroactive to date specified in regulation

Paid Vaccination Leave: Up to 6 hours (3 hours per dose) (ESC, Sec. 52.13)

Paid Sick Leave: Not required by LSC but subsidies available under Nova Scotia COVID-19 Leave program for up to 4 non-consecutive days if employee (i) doesn't already have paid sick leave thru employer, insurance or collective agreement, (ii) can't work remotely, and (iii) doesn't miss less than 50% of scheduled work time in one-week period due to COVID; Nova Scotia government reimburses employers up to \$640, or \$160 per day per worker; Covers days missed from May 10 to July 31, 2021

ONTARIO (*Employment Standards Act*, Sec. 50.1)

Scope: Applies to any infectious disease for which an emergency has been declared, including but not limited to COVID-19

Entitlement: Unpaid infectious disease emergency leave (IDEL) as long as necessary if the employee is: (a) Under individual medical investigation, supervision or treatment related to a designated infectious disease (DID); (b) Acting in accordance with public health order related to DID; (c) In isolation or quarantine or subject to a government control measure related to DID; (d) Directed by his/her employer not to work due to employer's concern he/she will expose other in workplace to DID; (e) Providing care or support to an individual referred to in subsection (8) of Act for a reason related to DID, including a school or child care service closure; (f) Directly affected by travel restrictions related to DID and, under the circumstances can't reasonably be expected to travel back to Ontario

Duration: January 25, 2020 until September 25, 2021 for COVID; after that, IDEL is for as long as any other infectious disease emergency is in effect retroactive to date specified in regulation

Paid Vaccination Leave: Employees can use paid sick leave to get vaccinated and recover from side effects

Paid Sick Leave: 1. Up to 3 non-consecutive days, which must be taken in whole days, if employee is: (a) Going for a COVID test; (b) Staying home to wait for results of a COVID test; (c) Sick with COVID; (d) Getting vaccinated against COVID; (e) Experiencing a side effect from a COVID vaccination; (f) Advised to self-isolate due to COVID-19 by an employer, medical practitioner or other specified authority; or (g) Providing care or support to certain relatives for COVID reasons; 2. Employee can't already have paid sick leave thru employer, insurance or collective agreement; 3. Ontario WSIB reimburses employers up to \$600, or \$200 per day per worker; 4. Covers days missed from April 19 to September 25, 2021

PRINCE EDWARD ISLAND (*Employment Standards Act*, Sec. 22.5)

Scope: Applies to any declared public emergency that prevents employees from performing their work duties, including but not limited to COVID-19

Entitlement: As long as necessary for as long as the emergency continues and the employee can't perform his/her work duties because of a public health order; an emergency also includes such a circumstance that applies to a family member of an employee, whether directly or in such a way as to require the family member to be in need of care and assistance and the employee is the only person

reasonably able under the circumstances to provide it

Duration: From March 16, 2020 until COVID public health emergency remains in effect; after that, for as long as any other future public health emergency is in effect retroactive to date specified in regulation

Paid Vaccination Leave: Employees can use paid sick leave for vaccination and recovery from side effects

Paid Sick Leave: Not required by ESA, except for employees with over 5 years' continuous employment who get 1 day of paid sick leave per year (ESA, Sec. 22.2(4) but COVID paid sick leave subsidies available under PEI government program for up to 3 non-consecutive days if employee (i) doesn't already have paid sick leave thru employer, insurance or collective agreement, (ii) can't work remotely, and (iii) doesn't miss less than 50% of scheduled work time in one-week period due to COVID; PEI government reimburses employers up to \$160 per day per worker; Covers days missed from March 1, 2021 until public health emergency in PEI ends

QUÉBEC (Govt. orders of Sept. 9, 2020)

Scope: Applies only to COVID-19, not future public health emergencies

Entitlement: Up to 14 days–10 days if employee hasn't had a fever for over 48 hours or any other COVID symptoms in 24 hours–if employee can't perform his/her work duties because of self-isolation or a public health order or is directed by employer not to work due to COVID exposure in workplace

Duration: Until COVID public health emergency remains in effect

Paid Vaccination Leave: None

Paid Sick Leave: None

SASKATCHEWAN (*Sask. Employment Act, Sec. 2-59.1*)

Scope: Applies to any disease for which a public health emergency has been declared, including but not limited to COVID-19

Entitlement: Public health emergency (PHE) leave as long as necessary if the employee is: (a) Directed to isolate him/herself by (i) his/her employer; (ii) a duly qualified medical practitioner; (iii) the Government of Saskatchewan; (iv) the chief medical health officer; or (b) Required to provide to care and support to a child family member affected by a chief medical health officer or government direction or order

Duration: Until public health emergency ends

Paid Vaccination Leave: Up to 3 consecutive hours per dose–6 hours in total (*OHS Regs, Sec. 6-22.1*)

Paid Sick Leave: 1. Employees entitled to regular wages and regular benefits during leave if: (a) They're authorized by their employer to work at home during that period; (b) They comply with the measures set out in the chief medical health officer order; and (c) Comply with any additional requirements set out in

a Lt. Governor in Council order; 2. Proposed legislation (Bill 603) would provide 10 days' paid sick leave per normal year or 14 days in year where communicable disease emergency is declared

NORTHWEST TERRITORIES (*Employment Standards Act, Sec. 30.3*)

Scope: Applies to any declared public health emergency that prevents employees from performing their work duties, including but not limited to COVID-19

Entitlement: As long as necessary for as long as the emergency continues and the employee can't perform work duties because he/she is: (a) under individual medical investigation, supervision or treatment for the reportable disease; (b) in isolation or quarantine, or subject to a control measure, including self-isolation due to directions or recommendations related to reportable disease from a health officer, health care professional, NWT HealthNet, the Government of the Northwest Territories or the Government of Canada; (c) under an employer's direction due to concern employee may expose others in the workplace; (d) providing care or child care to a family member due to a situation related to the reportable disease, including a school or day care closure; or (e) directly affected by travel restrictions related to the emergency and can't reasonably be expected to travel to their workplace

Paid Vaccination Leave: None

Paid Sick Leave: None

NUNAVUT

Doesn't provide for unpaid COVID-19 leave

Paid Vaccination Leave: None

Paid Sick Leave: None

YUKON (*Employment Standards Act Leave (COVID-19) Regulation*)

Scope: Applies to COVID-19 only and not future public health emergencies

Entitlement: Up to 14 days if period of up to 14 days if the employee: (a) Is subject to a health protection measure; or (b) Employee needs to care for his/her child or an eligible person while the child or eligible person is subject to a health protection measure

Duration: January 27, 2020 until COVID-19 public health emergency ends in Yukon

Paid Vaccination Leave: None

Paid Sick Leave: 1. Not required by ESA but government subsidies available under Yukon Paid Sick Leave Rebate Program for up to 10 non-consecutive days up to \$378.13 per employee per day for employees that are sick, self-isolating, or caring for other household members due to COVID; 2. Doesn't cover voluntary travel outside the territory, or to companies bringing workers into territory; 3. Covers days missed from April 1, 2021 to September 30, 2021