Maternity/Pregnancy Leave Rights – Know The Laws Of Your Province



While maternity leave is required by the employment standards laws of every jurisdiction, there are significant differences regarding:

- How long leave can last;
- How long employees must be employed to be eligible for leave;
- When leave must start and end;
- Whether employees get extensions in the event of late birth or complications;
- The kind of notice employees must provide to take leave;
- Whether employers can require pregnant employees to start leave early; and
- Whether employees continue to accrue seniority while they're on leave.

Quebec has the most generous maternity leave provisions in Canada; Alberta has the least generous leave rules. Here's a look at the requirements in each jurisdiction.

Maternity Leave Rights Across Canada

FEDERAL

- **Minimum employment for eligibility:** None.
- **Length of leave:** Up to 17 weeks.
- **Extensions:** If confinement doesn't occur during 17 weeks of leave, leave is extended until date of employee's confinement; and ii. Leave extended if child is hospitalized for as long as child is in hospital, as long as extension doesn't result in entire leave being longer than 52 weeks;
- **Leave must be taken** no earlier than 13 weeks before the estimated date of employee's confinement and end no later than 17 weeks after the actual date of confinement.
- **Combined parental and maternity leave** by more than one employee for same birth may not exceed 86 weeks.
- **Notice:** Employee must give at least 4 weeks' written notice of leave start date and duration unless there's a valid reason for not doing so; employee must notify employer of changes to leave dates within 2 weeks.
- **Employer right to force pregnant employee to start leave early:** Employer may

require a pregnant employee to take a leave of absence if she can't perform an essential function of her job and no appropriate alternative job is available for her.
- **Verification:** Employee must give employer certificate of a health care practitioner certifying that she's pregnant.
- **Seniority:** Accumulates during leave.
- **Other:** If employee requests in writing, employer must inform her in writing of every employment, promotion, or training opportunity for which the employee is qualified that arises while the employee is on leave.

(*Canada Labour Code*, Division VII)

ALBERTA

- **Minimum employment for eligibility:** At least 90 days with same employer.
- **Length of leave:** Up to 16 weeks.
- **Leave must start** at any time during the 13 weeks immediately before estimated date of delivery; employee who takes maternity leave must take at least 6 weeks' leave immediately following date of delivery, unless employee and employer agree to shorten period by employee's giving employer a medical certificate indicating that resumption of work won't endanger her health.
- **Employer right to force pregnant employee to start leave early:** Employer may give employee written notice requiring her to start maternity leave during the 12 weeks immediately before the estimated date of delivery if the employee's pregnancy interferes with the performance of her duties.
- **Combined parental leave** of employees who are parents of same child may be taken either by one of the employees or shared between them—up to 62 weeks aggregate—but employer doesn't have to grant parental leave to more than one employee at a time.
- **Notice:** Employee must give at least 6 weeks' written notice of leave start date and duration unless that's impossible due to predict the birth due to medical reasons or adoption placement date due to administrative reasons, in which case employee must provide notice at earliest possible time.
- **Verification:** Employer can require employee to provide a medical certificate certifying that she's pregnant and giving estimated date of delivery.
- **Employer right to demand early leave start:** Employer may give employee written notice requiring her to start leave during 12 weeks immediately before estimated date of delivery if her pregnancy interferes with performance of her duties.
- **Seniority:** Maintained during leave.

(*Emp. Standards Act*, Division 7)

BRITISH COLUMBIA

- **Minimum employment for eligibility:**
- **Length of leave:** Up to 17 weeks; extension up to 6 weeks if employee can't return to work for reasons related to the birth or termination of the pregnancy, but employer can request medical certification.
- **Extensions:** Up to 6 additional weeks if employee is unable to return to work after leave ends for reasons related to the birth or termination of the pregnancy.
- **Leave must be taken:** no earlier than 13 weeks before expected birth date, and no later than the actual birth date.
- **Employer right to force pregnant employee to start leave early:** None.

- **Shared parental leave:** Parents of same child employed by same employer can share parental leave.
    - **Option 1:** Standard parental leave up to 40 weeks but for which no parent can take more than 35 weeks, with EI benefits at 55%;
    - **Option 2:** Extended parental leave up to 69 weeks but for which no parent can take more than 61 weeks, with EI benefits at 33%.
- **Notice:** Employee must provide leave request in writing at least 4 weeks before proposed start date.
- **Verification:** Employer can require employee to submit certification from a medical practitioner or nurse practitioner stating expected or actual birth date or date the pregnancy terminated.
- **Seniority:** Accumulates during leave.

(*Emp. Standards Act*, Secs. 50 7 56)

MANITOBA

- **Minimum employment for eligibility:** At least 7 months of employment with same employer.
- **Length of leave:** Up to 17 weeks.
- **Leave must begin** no earlier than 17 weeks before the date of delivery estimated in medical certificate and end no later than 17 weeks after the date of delivery.
- **Employer right to force pregnant employee to start leave early:** None.
- **Combined maternity and parental leave:** Up to 63 weeks with parental leave to begin immediately after maternity leave, unless employer agrees to a different arrangement.
- **Notice:** Employee must give at least 4 weeks' written notice of leave start date—if not, leave can be shortened by amount of notice not given, e.g., by 2 weeks where an employee provides only 2 weeks' notice.
- **Verification:** Employee must as soon as practicable give employer a medical certificate listing estimated date of delivery.
- **Seniority:** Accumulates during leave for purposes of pensions and benefits and is maintained during leave for purposes of vacation.

(*Emp. Standards Code*, Division 9)

NEW BRUNSWICK

- **Minimum employment for eligibility:**
- **Length of leave:** Up to 17 consecutive weeks.
- **Leave must be taken** any time starting 13 weeks before specified date of delivery to day of actual delivery and lasting up to 17 weeks.
- **Employer right to force pregnant employee to start leave early:** If no alternative employment is available, employer may require employee to start leave at the time when the duties of her position can't reasonably be performed by a pregnant woman or the pregnancy "materially affects" her performance.
- **Shared parental leave:** Parents of same child employed by same employer can share parental leave (which is called "child care" leave in New Brunswick), as long as: i. they do it one at a time; ii. the leaves are consecutive; and iii. total shared leave between them doesn't exceed 62 weeks.
- **Combined parental and maternity leave:** Up to 78 weeks.
- **Notice:** Employee must notify employer of intent to take leave and expected start date 4 months before projected date of delivery or as soon as her pregnancy is

confirmed, whichever is the later, and give 2 weeks' notice of leave start date, absent an emergency.
- **Verification:** Employer may require employee to provide certificate from a medical practitioner, nurse practitioner or midwife stating that she's pregnant and listing the expected delivery date.
- **Employer right to demand start of leave:** If no alternative employment is available, employer may require the employee to start a leave of absence at the time when the duties of their position can't reasonably be performed by a pregnant person or the performance of their work is materially affected by the pregnancy.
- **Seniority:** Maintained during leave.

(*Employment Standards Act*, Secs. 43 and 44)

NEWFOUNDLAND

- **Minimum employment for eligibility:** At least 20 weeks of employment under an employment contract with same employer.
- **Length of leave:** Up to 17 weeks.
- **Leave must begin** no earlier than 17 weeks before expected birth date and end either: i. 17 weeks after leave began, or ii. 6 weeks after birth, still-birth or miscarriage, whichever is later.
- **Employer right to force pregnant employee to start leave early:**
- **Combined pregnancy and (adoption or) parental leave:** Up to 78 weeks, with parental leave starting immediately after pregnancy leave ends.
- **Notice:** Employee must give at least 2 weeks' written notice of leave start date.
- **Verification:** Employee must give employer a certificate from a medical practitioner or nurse practitioner stating estimated birth date.
- **Seniority:** Maintained during leave.

(*Labour Standards Act*, Part VII)

NOVA SCOTIA

- **Minimum employment for eligibility:**
- **Length of leave:** Up to 16 weeks.
- **Leave must begin** no sooner than 16 weeks before expected date of delivery, as employee determines, and no later than the date of delivery.
- **Leave must end** no sooner than the date of delivery and no later than 16 weeks after pregnancy leave began, as determined by the employee.
- **Shared parental leave:** Up to 61 weeks for employee who took pregnancy leave; 77 weeks for other parents; parental leave must start immediately after pregnancy leave ends.
- **Notice:** Absent an emergency, employee must give 4 weeks' written notice of leave start date and return date (if latter is anticipated to be sooner than maximum potential leave duration), unless employee can't provide such notice because they've been employed less than 4 weeks, the baby is born early, there's a medical condition, or an unexpected adoption placement, in which case employee must give as much notice as possible.
- **Verification:** Employer may require a certificate of a legally qualified medical practitioner stating that the employee's pregnant and specifying expected date of delivery.
- **Employer right to force pregnant employee to start leave early:** Employer may require a pregnant employee who's been employed for at least one year to take an

unpaid leave of absence while the duties of their position can't reasonably be performed by a pregnant person or the performance of their work is materially affected.
- **Seniority:** Maintained during leave.

(*Labour Standards Code*, Secs. 58A and 59)

ONTARIO

- **Minimum employment for eligibility:** Due date must be at least 13 weeks after her employment with employer began.
- **Length of leave:** Up to 17 weeks.
- **Leave must begin** no sooner than 17 weeks before the due date and no later than the day on which she gives birth.
- **Leave must end**: (a) If employee is also entitled to parental leave, 17 weeks after the pregnancy leave began; or (b) If she's not entitled to parental leave, on the day that's the later of, (i) 17 weeks after the pregnancy leave began, and (ii) 12 weeks after the birth, still-birth or miscarriage.
- **Employer right to force pregnant employee to start leave early:**
- **Combined pregnancy and parental leave:** Employees who take pregnancy leave who also want to take parental leave must do so immediately after pregnancy leave, unless child isn't yet in her control (e.g., the baby is still in the hospital), in which case the employee can return to work and start parental leave when the baby does come into her control for the first time.
- **Notice:** Employee must give at least 2 weeks' written notice of leave start date.
- **Verification:** Employer may require certificate from a legally qualified medical practitioner stating the due date.
- **Seniority:** Accumulates during leave, but not for purposes of determining if employee has completed her probationary period.

(*Employment Standards Act,* Part XV)

PRINCE EDWARD ISLAND

- **Minimum employment for eligibility:** At least 20 weeks of employment with same employer in past 52 weeks, which need not be consecutive or immediately precede leave start date.
- **Length of leave:** Up to 17 weeks.
- **Leave must be taken** starting any time in the period of 13 weeks immediately before the estimated date of birth and lasting 17 weeks after that.
- **Extensions:** Employee gets at least 6 weeks additional leave after the birth date if the actual birth date is later than expected;); and ii. Employee gets up to 5 extra weeks if new child has a physical, psychological or emotional condition requiring an additional period of parental care, provided that employee submits an application to the employer for extension of the leave, and if the employer asks, provides certificate from a medical practitioner stating that the child has a physical, psychological or emotional condition requiring an additional period of parental care.
- **Employer right to force pregnant employee to start leave early:** Employer may require employee to start maternity leave not more than 3 months before estimated birth if the pregnancy "would unreasonably interfere with the performance of" their duties, but in a legal case alleging violation, employer has burden to prove that the pregnancy "unreasonably interferes" with the pregnant person's duties.

- **Combined maternity and parental leave:** Up to 78 weeks, which must be taken consecutively, unless the employer and employee agree otherwise.
- **Notice:** Employee must give at least 4 weeks' written notice of leave start date and date of return.
- **Verification:** Employee must give employer a certificate from a medical practitioner stating that the employee's pregnant and specifying the estimated date of birth.
- **Employer right to demand leave start early:** If the estimated birth date is 3 months or less away, employer may require employee to start leave early if her pregnancy would unreasonably interfere with the performance of her duties—employer has burden of proving such interference.
- **Seniority:** Maintained during leave.

(*Employment Standards Act*, Secs. 19, 20, 22)

QUÉBEC

- **Minimum employment for eligibility:**
- **Length of leave:** Up to 18 weeks.
- **Leave may be taken** starting no later than the sixteenth week before expected delivery date and ending no later than 20 weeks after the week of delivery.
- **Extensions:** i. If there's a risk of termination of pregnancy or the health of the mother or unborn child, caused by the pregnancy and requiring a work stoppage, employee gets a special maternity leave, without pay, for duration listed in the medical certificate attesting the existing risk and indicating the expected date of delivery; ii. If delivery occurs after expected date, employee gets at least 2 weeks of maternity leave after delivery; and iii. If there's a termination of pregnancy before the beginning of the twentieth week before the expected date of delivery, the employee gets a special unpaid maternity leave of up to 3 weeks, unless a medical certificate attests that the employee needs an extended leave; and iv. If termination of pregnancy occurs in or after the twentieth week, employee gets a maternity leave without pay of up to 18 consecutive weeks that ends no later than 20 weeks after the week of the event.
- **Combined maternity/parental leave**: Up to 65 weeks.
- **Notice:** Employee must give at least 3 weeks' written notice of leave start and return dates
- **Verification:** Employee notice must be accompanied with a medical certificate attesting to the pregnancy and expected date of delivery—medical certificate may be replaced by written report signed by a health professional authorized to provide pregnancy care.
- **Employer right to force pregnant employee to start leave early:** Starting in sixth week before expected delivery date, employer may, in writing, require a pregnant employee to produce a medical certificate attesting that she's fit to work and if she refuses or neglects to produce the certificate within 8 days, employer may require her to take maternity leave immediately by sending her a written notice to that effect giving reasons.
- **Seniority:** Maintained during leave.

(*Labour Standards Act*, Sec. 81)

SASKATCHEWAN

- **Minimum employment for eligibility:** More than 13 weeks of consecutive employment with same employer.

- **Length of leave:** Up to 19 weeks.
- **Leave must be taken**: Can start any time during the period of 13 weeks before the estimated date of birth, and no later than the date of birth, and last up to 19 weeks.
- **Extensions**: If actual date of birth is later than estimated date of birth, employee is entitled to no less than 6 weeks' leave after the actual date of birth and may also extend the leave up to another 6 weeks if she's unable for medical reasons to return to work after the maternity leave expires.
- **Combined maternity and parental or adoption leave** must be consecutive and taken during period that starts 13 weeks before estimated date of birth or adoption, and ends 78 weeks after the actual birth or adoption date.
- **Combined maternity and parental leave** for a mother can't exceed 78 weeks and must be taken consecutively, unless the employer and employee agree otherwise.
- **Notice:** Employee must give at least 4 weeks' written notice of leave start date and return date
- **Verification:** Employer can request verification of need for leave.
- **Employer right to force pregnant employee to take leave:** Employer may require employee to start maternity leave no more than 13 weeks before the estimated date of birth if: (a) her pregnancy would unreasonably interfere with the performance of her duties; and (b) there's no opportunity to modify her duties or reassign her to other duties.
- **Seniority:** Accrues during leave.

(*Sask Emp Act*, Subdivision 11)

NORTHWEST TERRITORIES

- **Minimum employment for eligibility:** At least 12 months of consecutive employment with same employer.
- **Length of leave:** Up to 17 weeks.
- **Leave must be taken** starting any commencing at any time during the 17 week-period immediately before estimated delivery date and lasting up to 17 weeks.
- **Extensions:** If actual date of delivery is after estimated date of delivery, the employee may request and employer must grant extension of up to 6 consecutive weeks from delivery date.
- **Employer right to force pregnant employee to start leave early:** If employer requests, the NWT Employment Standards Officer may require an employee to start pregnancy leave if the Officer is satisfied that the employee's duties can't reasonably be performed because of the pregnancy.
- **Combined maternity and parental leave:** Up to 86 weeks.
- **Notice:** Employee must give at least 4 weeks' written notice of leave start date.
- **Verification:** Employer may demand medical certificate confirming that employee's pregnant and estimating date of delivery.
- **Employer Right to Demand Early Start of Leave:** Employer may ask Employment Standards Officer to require an employee to start pregnancy leave if the Officer believes that the duties of the employee can't reasonably be performed because of the pregnancy.
- **Seniority:** Maintained during leave.

(*Employment Standards Act*, Secs. 26, 27, 35)

NUNAVUT

- **Minimum employment for eligibility:** At least 12 months of consecutive employment

with same employer.
- **Length of leave:** Up to 17 weeks.
- **Leave must be taken** starting any commencing at any time during the 17 week-period immediately before estimated delivery date and lasting up to 17 weeks.
- **Extensions:** If actual date of delivery is after estimated date of delivery, the employee may request and employer must grant extension of up to 6 consecutive weeks from delivery date.
- **Employer right to force pregnant employee to start leave early:** If employer requests, the Labour Standards Officer may require an employee to start pregnancy leave if the Officer is satisfied that the employee's duties can't reasonably be performed because of the pregnancy.
- **Combined maternity and parental leave:** Up to 52 weeks.
- **Notice:** Employee must give at least 4 weeks' written notice of leave start date.
- **Verification:** Employer may demand medical certificate confirming that employee's pregnant and estimating date of delivery.
- **Employer Right to Demand Early Start of Leave:** Employer may ask Labour Standards Officer to require an employee to start pregnancy leave if the Officer believes that the duties of the employee can't reasonably be performed because of the pregnancy.
- **Seniority:** Maintained during leave.

(*Employment Standards Act*, Part V)

YUKON

- **Minimum employment for eligibility:** At least 12 months of continuous full- or part-time employment with same employer.
- **Length of leave:** Up to 17 weeks.
- **Leave must be taken** within the period that begins on the birth or adoption date, i.e., the date the child arrives at the employee's home, and ends 78 weeks after that.
- **Extension:** Employee needing leave because of health problems due to pregnancy can't be required to return to work before a day that's 6 weeks after the date of the birth or of the termination of the pregnancy.
- **Notice:** Employee must give at least 4 weeks' written notice of leave start date—employee must provide 4 weeks' written notice to return early.
- **Verification:** Employee must give employer a certificate of a qualified medical practitioner, qualified nurse practitioner or qualified registered midwife stating she's pregnant and child's probable birth date.
- **Employer right to force pregnant employee to start leave early:** Employer may, at any time within 6 weeks of probable date of birth, require an employee to begin maternity leave of absence if the employee's duties can't reasonably be performed because of the pregnancy, as long as an employment standards director consents.
- **Seniority:** Accrues during leave.

(*Employment Standards Act*, Part 6)