

Organ Donation Leave Policy



The employment standards laws of 5 jurisdictions (Federal, Manitoba, Ontario, Québec, and Saskatchewan) entitle employees to take unpaid leave to donate an organ. In 2 of those jurisdictions—Federal and Québec—leave includes paid days. But specific [rules and requirements vary from province to province](#). So, it's important to establish and implement an organ donation leave policy that complies with the employment standards laws of your jurisdiction. Here's a generic template policy that you can tailor to the requirements of your own jurisdiction in accordance with the instructions provided. You can also get a complete [Organ Donation Leave Compliance Game Plan](#).

LEAVE OF ABSENCE FOR ORGAN DONATION

1. PURPOSE

The purpose of this Policy is to establish clear ground rules for requesting, taking, and returning from organ donation leave in accordance with the requirements of the *[province's Employment Standards statute]*.

2. DEFINITIONS

For purposes of this Policy:

1. **[Ontario only] "Legally qualified medical practitioner,"** when used to describe the person who must certify an employee's need for leave under this Policy means:
 - A member of the College of Physicians and Surgeons of Ontario if the surgery is in Ontario; and
 - A person qualified to practice medicine under the laws of that jurisdiction where the surgery will take place if the surgery is to take place outside of Ontario;
1. **[Federal only] "Medical leave of absence"** means leave for:
 - Organ or tissue donation;
 - Personal illness or injury;
 - Medical appointments during working hours; or
 - Quarantine.
1. **[Ontario only] "Organ"** means all or a part of a kidney, liver, lung, pancreas,

or small bowel;

2. **“Organ donation”** occurs when an employee undergoes surgery to remove an organ or tissue for purposes of transferring it to another individual;
3. **“Qualified health care practitioner”** means a person who is lawfully entitled to practice under the laws of the jurisdiction in which the person provides services.

3. ELIGIBILITY FOR ORGAN DONATION LEAVE

[Federal] Employees are entitled to unpaid medical leave of absence of up to 27 weeks per year.

[Manitoba] Employees who have been employed by ABC Company for at least 30 days are entitled to unpaid organ donation leave of absence of up to 13 weeks per year.

[Ontario] Employees who have been employed by ABC Company for at least 13 weeks are entitled to unpaid organ donation leave of absence of up to 13 weeks per year.

[Québec] Employees who have at least 3 months of uninterrupted employment with ABC Company are entitled to unpaid organ donation leave of absence of up to 26 weeks per year.

[Saskatchewan] Employees who have been employed by ABC Company for at least 13 consecutive weeks are entitled to unpaid organ donation leave of absence of up to 26 weeks per year.

3.1 PAID ORGAN DONATION LEAVE [Federal & Québec only]

[Federal] Employees who have completed 30 days of continuous employment with ABC Company are entitled to take 3 days of their medical leave of absence as paid leave days. Employees will then accrue one additional day of paid medical leave of absence per year for each 30 days of continuous employment they work thereafter, effective at the start of each month, up to a maximum of 10 paid days per year. Employees who do not use their full allotment of paid medical leave of absence days during a year may carry any unused paid medical leave days forward to January 1 of the next year, provided that the employee’s total allotment of paid days may never exceed 10 per year. Paid days will be paid at the employee’s regular rate of wages for the employee’s normal hours of work. Rate of wages of an employee whose hours of work differ from day to day or who is paid on a basis other than time will be:

1. The average of the employee’s daily earnings, exclusive of overtime hours, for the 20 days the employee worked immediately before the first day of the period of paid leave; or
2. An amount calculated by a method agreed on under a collective agreement that is binding on ABC Company and the employee.

[Québec] Organ donation leave includes 2 days of paid leave per year unless the employee has already used paid days:

1. To fulfil family obligations relating to the care, health or education of their child or their spouse’s child or as an informal caregiver;
2. Owing to sickness; or
3. After an accident, incident of domestic violence or sexual violence, or criminal offence.

4. HOW & WHEN ORGAN DONATION LEAVE MAY BE TAKEN

Leave under this Policy will begin on the date the employee undergoes organ donation surgery or an earlier date specified by a qualified healthcare practitioner where the employee needs time to prepare for surgery and end on a date that is no later than _____ [insert one of the following]

[Federal] 27 weeks from the leave start date. Leave may be taken in more than one period, provided however, that each leave period must be in full-day increments.

[Québec/Saskatchewan] 26 weeks from the leave start date.

[Manitoba/Ontario] 13 weeks from the leave start date.

5. NOTIFICATION OF LEAVE

Employees wishing to take organ donation leave under this Policy must give their supervisor or the ABC Company HR director written notice _____ [insert one of the following]

[Federal/Saskatchewan] within 4 weeks before the leave start date.

[Ontario] within 2 weeks before the leave start date.

[Manitoba] as far in advance of the leave start date as is reasonable and practicable under the circumstances.

[Québec] as soon as possible.

And list in the notice:

1. The reasons for leave;
2. The date leave is expected to start; and
3. The date the employee expects to return to work.

Once leave begins, employees must notify their supervisor or the ABC Company HR director of any changes in their estimated date of return.

6. MEDICAL CERTIFICATION OF LEAVE

Upon providing notification of leave, employees must furnish a medical certificate from a qualified health care practitioner **[if you're in Ontario, change this to "legally qualified medical practitioner"]** confirming their need for leave and listing the date of surgery and period the employee will need to recover from the procedure.

7. EXTENSION OF LEAVE

[Québec/Saskatchewan] Employees may seek one or more extensions of leave under this Policy, provided that total organ donation leave time for the year does not exceed 26 weeks.

[Federal] Employees may seek one or more extensions of leave under this Policy, provided that total medical leave of absence time for the year does not exceed 27 weeks.

[Manitoba] Employees may extend the leave beyond the maximum 13 weeks or earlier end date listed in the medical certificate by giving ABC Company: (i) written notice of

at least one pay period before extending the leave, if reasonable and practicable in the circumstances; and (ii) a medical certificate stating that they need an additional specified period to recover from donating an organ and stating a time period the employee needs to recover. Employees may seek one or more extensions in accordance with the above requirements, provided that total extensions for the year do not exceed 13 weeks.

[Ontario] Employees may extend leave by up to 13 weeks if a legally qualified medical practitioner issues a certificate stating that the employee is not yet able to perform the duties of the position because of the organ donation and will not be able to do so for a specified time. Organ donation leave may be extended more than once, provided that total extensions for the year do not exceed 13 weeks.

8. EARLY RETURN FROM LEAVE

Employees may end leave early by providing ABC Company notification of their intent to return early and listing the date of return _____ *[insert one of the following]*

[Federal/Québec/Saskatchewan] as far in advance of the day before they want to end leave as is reasonable and practicable in the circumstances.

[Manitoba] within at least one pay period of the day before they want to end leave.

[Ontario] within at least two weeks of the day before they want to end leave.

9. REINSTATEMENT

When employees return to work after leave, they will either be reinstated or assigned alternative equivalent work with at least the same pay and benefits in accordance with the requirements of the *[province's Employment Standards statute]*.

10. NON-RETALIATION

Neither ABC Company nor any of its managers, supervisors, employees, or other representatives and agents will discharge, threaten, penalize, or in any other manner discriminate or retaliate against any employee for exercising their rights under this Policy, including but not limited to requesting or taking organ donation leave or inquiring about their leave rights.