

Parental Leave Compliance Game Plan

written by Tina Tsonis | February 7, 2024



Employment standards laws of all jurisdictions allow employees to take unpaid leave to have children, including not just pregnancy or maternity leave for female employees who give birth to a child but also parental and adoption leave for both parents of newly born or adopted children. However, [parental leave rules vary by jurisdiction](#). This creates compliance challenges for HR directors, particularly if your organization operates in more than one province. Here's a 12-step game plan for implementing a legally sound [parental leave policy](#) and ensuring compliance with parental leave employment standards requirements.

For More Help: Go to the HR Insider site for template Parental Leave Policies based on the laws of [Alberta](#), [BC](#) and [Ontario](#).

Step 1. Ensure Employees Are Eligible for Parental Leave

Your policy should list who's eligible for parental leave. In most jurisdictions, employees don't qualify for parental leave unless they've worked for the employer for a minimum amount of time.

Table 1. Minimum Employment Required for Parental Leave Eligibility

None (all employees eligible)	90 Days	13 Weeks	20 Weeks	7 Months	12 Months
Federal, British Columbia, New Brunswick, Nova Scotia, Québec	Alberta	Ontario, Saskatchewan	Newfoundland, Prince Edward Island*	Manitoba	Northwest Territories, Nunavut, Yukon

*In PEI, the minimum 20 weeks need not be consecutive but must have occurred in the past 52 weeks

Source: Bongarde

Step 2. Ensure Employees Have Proper Grounds to Take Parental Leave

Grounds for taking maternity leave under employment standards are relatively simple: Employees must be female and pregnant. Parental leave, on the other hand, can be

taken by either a male or female who wants to be home to greet and care for a new child. The 3 grounds:

- Birth of a child;
- Adoption; and
- End of a maternity leave—in effect, parental leave becomes an extension of the leave taken immediately after the maternity leave ends.

Step 3. Require Employees to Take Parental Leave During Appropriate Window

Parental leave is designed for newborn and adoption situations, not ongoing parental care obligations. So, be sure your policy clearly states when parental leave can be taken. In most jurisdictions, employees must take parental leave during a time window that begins on the date the child is born or adopted, that is, first comes into the employee's care, and ends 78 weeks (6 months) after that. However, there are exceptions:

- In Ontario and Manitoba, parental leave need only **begin** during the 78-week period and doesn't have to be completed during that window; and
- In Nunavut, the window is only 52, rather than 78 weeks.

Step 4. Ensure Parental Leave Time Doesn't Exceed Maximum Duration

Specify how long parental leave can last. The maximum length of parental leave employees get per year varies by jurisdiction and whether:

- The employee is also taking maternity or pregnancy leave for the same birth; and/or
- More than one employee is taking parental or adoption leave for the same birth or adoption.

Jurisdiction	Single Employee Not Also Taking Maternity Leave	Single Employee Also Taking Maternity Leave	2 Employees for Same Birth or Adoption
Federal	63 weeks	71 weeks	86 weeks
Alberta	62 weeks	Not specified	62 weeks
British Columbia	63 weeks	78 weeks	Shared Parental Leave Standard: Up to 40 weeks with no parent taking more than 35 weeks, with EI benefits at 55% Extended: Up to 69 weeks but with no parent taking more than 61 weeks, with EI benefits at 33%
Manitoba	63 weeks	63 weeks	N/A
New Brunswick	62 weeks	78 weeks	62 weeks
Newfoundland	61 weeks	78 weeks	N/A
Nova Scotia	61 weeks	77 weeks	62 weeks
Ontario	63 weeks	78 weeks	N/A
Prince Edward Island	62 weeks	78 weeks	N/A
Québec	65 weeks	85 weeks	N/A
Saskatchewan	71 weeks	78 weeks	86 weeks

Jurisdiction	Single Employee Not Also Taking Maternity Leave	Single Employee Also Taking Maternity Leave	2 Employees for Same Birth or Adoption
Northwest Territories	61 weeks	78 weeks	86 weeks
Nunavut	37 weeks	52 weeks	86 weeks
Yukon	63 weeks	71 weeks	N/A

Source: Bongarde

When taken by the same employee, parental leave must generally begin immediately after maternity or pregnancy leave ends, unless the parties agree otherwise. The 86 weeks for shared parental leave typically begin 13 weeks before the birth or adoption date.

Step 5. Require Employees to Take Parental Leave on a Continuous Basis

Specify that employees must take maternity and parental leave over a continuous period and not break it into separate, smaller pieces. **Caveat:** A few jurisdictions, including Nova Scotia, Québec and the Federal jurisdiction, allow employees to interrupt leave and resume it later, such as where a baby is hospitalized for a sustained period. In addition, a mother taking maternity and parental leave for the same birth must begin the latter right after the former ends.

Step 6. Establish Clear Rules for Extending Parental Leave

Most jurisdictions allow employees to extend their parental leave once it begins under certain conditions, such as when a child or mother experiences a medical, psychological or emotional condition that requires an additional period of parental care. Just make sure your parental leave policy lists these grounds for extension based on the employment standards laws of your own province.

Step 7. Require Employees to Provide Parental Leave Notification

Parental or any other extended leave can play havoc with work schedules and other operational plans. The good news is that employment standards laws require employees to provide employers written notification of their intent to take parental leave and its expected duration a specified number of weeks in advance, unless it's impossible to provide such notification, in which case the employee must provide notification as soon as possible. Four weeks' notice is the rule in most jurisdictions, but there are exceptions:

Jurisdiction	Required Employee Notice for Parental Leave (weeks before due date or adoption date)
Federal	4
Alberta	6
British Columbia	4
Manitoba	4
New Brunswick	2
Newfoundland	2
Nova Scotia	4
Ontario	2
Prince Edward Island	4
Québec	3

Jurisdiction	Required Employee Notice for Parental Leave (weeks before due date or adoption date)
Saskatchewan	4
Northwest Territories, Nunavut	4
Yukon	4

Source: Bongarde

Step 8. Require Employees to Verify Their Need for Parental Leave

Employers can require employees to provide certification of pregnancy and delivery date from a doctor or nurse practitioner to verify their need for *pregnancy or maternity* leave. However, most jurisdictions don't extend certification requirements to parental or adoption leave. **Exceptions:** If employers request it, employees must provide verification of parental or adoption leave in Alberta, BC, New Brunswick, Nova Scotia and Saskatchewan.

Step 9. Require Employees to Remain in Communication During Parental Leave

There needs to be a process in place to ensure an orderly return from leave. While you want to afford employees who are welcoming a new child plenty of personal space, you also have a legitimate interest in requiring them to remain in contact with their supervisors or managers to discuss their plans to return.

Step 10. Establish Rules for Early Return from Parental Leave

Employees generally must list their return date in written notification of intent to take parental leave. If there's no return date given, the employer is entitled to assume the leave will continue for the maximum duration allowed under the province's employment standards laws. Employees who want to return early must provide written notification of the revised return date by a specified number of weeks before that return date, typically 4 weeks.

Step 11. Ensure Proper Reinstatement from Parental Leave

Employers must reinstate employees returning from maternity, parental and other extended employment standards law leaves leave to their previous jobs or a comparable position in terms of pay and benefits, and with no loss in seniority. In most jurisdictions, employees also continue to accrue benefits, vacation and service time while they're on leave. Be sure that you're familiar and compliant with the reinstatement and continuing benefits requirements of your particular province.

Step 12. Don't Retaliate Against Employees for Taking Parental Leave

Employers aren't allowed to punish employees for exercising their parental or adoption leave rights. Accordingly, your leave policy should include clear assurances that no employee will suffer termination, demotion, cuts in pay or benefits or any other adverse treatment in retaliation for taking parental leave or even asking about their leave rights and that any person found to engage in reprisal or retaliatory action will be subject to discipline up to and including termination.