

Pregnancy And Parental Leaves – Ontario And B.C.



Employment standards, such as rules surrounding pregnancy and parental leave, are regulated at the provincial level. This means that if your business operates in more than one province, it is vital to consider how policies that relate to employees may vary between the different locations.

Pregnancy and parental leave are examples of where small differences in the legislation could get an employer in trouble. The chart below compares the differences in pregnancy and parental leave in Ontario and British Columbia. The table highlights the importance of having a lawyer review your policies and procedures to ensure that they are in compliance with all regulations and laws in the different locations in which you operate.

In the case of employment policies, one size does not fit all and failure to tailor your policies for different jurisdictions could result in claims by your employees under employment standards legislation.

PREGNANCY <i>unpaid</i> LEAVE		
	Ontario	B.C.
Legislation	<i>Employment Standards Act, 2000</i> sections 46-47, 51-53	<i>Employment Standards Act</i> sections 50, 54, 56
Number of Weeks	up to 17 weeks must be taken all at once	up to 17 consecutive weeks in cases of birth 6 consecutive weeks in cases where employee requests leave <i>after</i> the birth or termination of pregnancy
Additional Leave	none	6 consecutive weeks if unable to return to work due to reasons related to birth or termination of pregnancy.

When does it begin?	Up to 17 weeks prior to the due date and no later than the earlier of the due date or the birth of the child. Employee (not employer) decides when to begin leave.	Up to 11 weeks prior to the due date and no later than the birth of the child. Employee (not employer) decides when to begin leave.
When does it end?	Upon the completion of the 17 weeks or with 4 weeks' written notice by employee if earlier than 17 weeks. Employer entitled to request a certificate from a medical practitioner stating Due Date.	No earlier than 6 weeks after birth, unless requested by the employee, and no later than 17 weeks after the birth. One week's notice is required if the employee requests to return less than 6 weeks after birth. Employer entitled to request a certificate from a medical or nurse practitioner stating expected or actual birth date, date pregnancy terminated, or stating reasons for requesting additional leave.
Conditions for Eligibility	Pregnancy Full-time, part-time, and contract employment. <i>Must have been employed for the 13 weeks prior to the due date, although need not be actively working.</i>	Pregnancy Full-time, part-time, and contract employment.
Request for Leave	Must provide 2 weeks' written notice unless medical complications require immediate leave. Failure to provide notice does not disentitle employee to leave.	Must provide 4 weeks' written notice, if the request is made during pregnancy. Failure to provide notice does not disentitle employee to leave.
Resignation during Leave	Must provide 4 weeks' written notice.	
Benefits During Leave	Employment is considered continuous throughout leave for purposes of calculating annual vacation, wage increased, and termination entitlement as well as for pension, medical or other plans of benefit to the employee. Employer must continue to pay benefit premiums but if employee pays part of the benefit premium, employee can elect whether or not to continue to make payments to the benefit premium.	Employment is considered continuous throughout leave for purposes of calculating annual vacation, wage increased, and termination entitlement as well as for pension, medical or other plans of benefit to the employee. Employer must continue to pay benefit premiums but if employee pays part of the benefit premium, employee can elect whether or not to continue to make payments to the benefit premium.
Return to Employment After Leave	Employee is entitled to reinstatement to the job held prior to leave or a comparable job if the employee's job no longer exists.	Employer must place the employee in the position held before taking leave or in a comparable position.

PARENTAL *unpaid* LEAVE

	Ontario	B.C.
Legislation	<i>Employment Standards Act, 2000</i> sections 48-49, 51-53	<i>Employment Standards Act</i> sections 51, 54, 56
Number of Weeks	<i>Birth Mothers: 35 weeks</i> <i>Non-birth mothers: 37 weeks</i> Can be combined with pregnancy leave for a total of 52 weeks.	<i>Birth Mothers: 35 consecutive weeks</i> <i>Non-birth mothers: 37 consecutive weeks</i> Can be combined with pregnancy leave for a total of 52 weeks.
Additional Leave	none	5 consecutive weeks if child has physical, psychological or emotional condition <i>beginning immediately</i> after 35 or 37 week leave above
When does it begin?	<i>Birth Mothers: as soon as pregnancy leave ends</i> . <i>Non-Birth Mothers: no later than 52 weeks after birth or after child is placed with parent.</i>	<i>Birth Mothers: as soon as pregnancy leave ends</i> unless employer and employee agree otherwise. <i>Non-Birth Mothers: no later than 52 weeks after birth or after child is placed with parent.</i> Employer entitled to request a certificate from a medical or nurse practitioner stating expected or actual birth date, date pregnancy terminated, or stating reasons for requesting additional leave.
When does it end?	After the completion of the 35 or 37 weeks or with 4 weeks' notice if an earlier date. Leave must be taken all at once.	After the completion of the 35 or 37 weeks.
Conditions for Eligibility	Full-time, part-time, and contract employment. 1. Birth Parent, 2. Adoptive Parent, or 3. A person who is in a relationship with a parent and intends to treat the child as his or her own. <i>Must have been employed for the 13 weeks prior to the due date, although need not be actively working.</i>	Full-time, part-time, and contract employment. 1. Birth Parent, or 2. Adoptive Parent.
Request for Leave	Must provide 2 weeks' written notice.	Must provide 4 weeks' written notice.
Resignation during Leave	Must provide 4 weeks' written notice.	

Benefits During Leave	<p>Employment is considered continuous throughout leave for purposes of calculating annual vacation, wage increased, and termination entitlement as well as for pension, medical or other plans of benefit to the employee. Employer must continue to pay benefit premiums but if employee pays part of the benefit premium, employee can elect whether or not to continue to make payments to the benefit premium.</p>	<p>Employment is considered continuous throughout leave for purposes of calculating annual vacation, wage increased, and termination entitlement as well as for pension, medical or other plans of benefit to the employee. Employer must continue to pay benefit premiums but if employee pays part of the benefit premium, employee can elect whether or not to continue to make payments to the benefit premium.</p>
Return to Employment After Leave	<p>Employee is entitled to reinstatement to the job held prior to leave or a comparable job if the employee's job no longer exists.</p>	<p>Employer must place the employee in the position held before taking leave or in a comparable position.</p>

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