

Reservist Leave Rights – Know The Laws Of Your Province

written by Tina Tsonis | March 23, 2022



Bereavement leave eligibility, pay, notification and verification rules vary by province.

Bereavement leave is required by the employment standards laws of every jurisdiction. But specific eligibility, pay, notification and verification requirements vary from place to place. Here's a look at the requirements in each jurisdiction.

Abbreviation: NDA = *National Defence Act*

Employee Reservist Leave Rights Across Canada

FEDERAL

(1) **Eligibility:** At least 3 consecutive months of continuous employment; (2) **Covered activities:** (a) operations in Canada or abroad, including preparation, training, rest or travel from or to employee's residence; (b) Canadian Armed Forces military skills training; (c) training ordered under paragraph 33(2)(a) of the NDA; (d) duties called out on service to perform under paragraph 33(2)(b) of NDA; (e) service in aid of a civil power called out to perform under section 275 of NDA; or (f) treatment, recovery or rehabilitation for a physical or mental health problem resulting from above service; (3) **Cap:** No more than 24 months, except if leave due to emergency; (4) **Notice:** At least 4 weeks in writing unless "valid reason" not to, in which case notice required as soon "as practicable"; and (5) **Verification:** If employer requests, employee must provide documentation of need for leave within 3 weeks unless valid reason not to; (6) **Change in leave length:** Unless there's a valid reason not to, employee notify employer of any change in length of the leave at least 4 weeks before: (a) the new day on which the leave is to end, if the employee is taking a shorter leave; or (b) the day that was most recently indicated for the leave to end, if the employee is taking a longer leave; and (7) **Return:** Employee on reservist leave for over 4 weeks must give at least 4 weeks' written notice of return date; if not, employer can postpone return for up to 4 weeks (*Canada Labour Code, Secs. 247.5 to 247.8*)

ALBERTA

(1) **Eligibility:** At least 12 consecutive weeks; (2) **Covered activities:** (a) deployment to a Canadian Forces operation outside Canada; (b) deployment to a Canadian Forces operation inside Canada for an emergency or its aftermath; and (c) up

to 20 days' annual training, including related travel time, in calendar year; (3) **Notice:** At least 4 weeks in writing listing: (a) start date; (b) estimated date of return, or (c) in the case of leave for annual training, actual return date; if 4 weeks' notice impossible due to deployment for urgent reasons, employee must advise employer in writing "as soon as is reasonable and practicable in the circumstances"; (4) **Verification:** If employer requests proof of need for leave, employee must provide a document from his/her commanding officer specifying: (a) that the employee is taking or has taken part in an operation or activity for which leave allowed; (b) day on which the leave is to start or started, and (c) estimated or actual length of leave; (5) **Change in leave length:** Employee must notify employer in writing of any change in length of leave as soon as is reasonable and practicable in the circumstances, unless there's a valid reason for not doing so; and (6) **Return:** Employee must give at least 4 weeks' written notice of return date; if not, employer can postpone return for up to 4 weeks (*Employment Standards Code, Secs. 53.2 and 53.3*)

BRITISH COLUMBIA

(1) **Eligibility:** No minimum employment time requirement; (2) **Covered activities:** (a) deployment to a Canadian Forces operation outside Canada or engagement, or a required pre-deployment or post-deployment activity; (b) deployment to a Canadian Forces operation inside Canada providing assistance for an emergency or its aftermath; or (c) up to 20 days per calendar year for participating in or traveling to/from Canadian Forces training activities; (3) **Notice:** Written request of: (a) at least 4 weeks listing start and return date; or (b) "as soon as practicable" after learning of deployment; (4) **Change in leave length:** (a) If leave lasts longer than planned, employee must: (i) notify employer of need for extended leave and of new return date the employee now proposes to return to work, and (ii) provide the notice required in Section 3 above; and (b) If leave is shorter than planned, employee must notify employer of proposed early return at least 1 week in advance; and (5) **Verification:** Employer may require employee "to provide further information" about the leave (*Employment Standards Act, Sec. 52.2/Reservists' Leave Regulation*)

MANITOBA

(1) **Eligibility:** At least 3 consecutive months; (2) **Covered activities:** (a) active duty; (b) military skills training; or (c) treatment, recovery or rehabilitation for a physical or mental health problem resulting from active duty or military skills training; (3) **Notice:** As much written notice as "reasonable and practicable in the circumstances"; (4) **Verification:** Employer may require employee to provide "reasonable verification" of need for leave, including a certificate from an official with the Reserves stating: (a) that the employee is a member of the Reserves and is required for service; and (b) if possible, the expected start and end dates for the period of service; and (5) **Return:** Employee must give employer written notice of expected date of return to work and employer may defer return to work by up to 2 weeks or one pay period, whichever is longer, after receiving the notice (*Employment Standards Code, Sec. 59.5*)

NEW BRUNSWICK

(1) **Eligibility:** At least 6 months employment; (2) **Cap:** No second/subsequent leave unless at least 12 months pass since employee returns from first leave; (3) **Covered activities:** (a) deployment to a Canadian Forces operation or engagement in a required pre- or post-deployment activity required by the Canadian Forces; (b) treatment, recovery or rehabilitation in respect of a physical or mental health problem

resulting from above activity; and (c) up to 30 days per calendar year for annual training, including related travel time; (4) **Notice:** Employee must give employer written notice listing start and end date: (a) at least 4 weeks before start date; or (b) if employee receives less than 4 weeks' notice of service or annual training, "as soon as practicable" after getting notice; (5) **Verification:** Employer may require employee to provide certificate from an official with the Reserves stating: (a) that the employee is a reservist and is, (i) selected for service, or (ii) required to attend annual training, and (b) if possible, the expected start and end dates; (6) **Change in leave length:** If circumstances beyond employee's control require a change in leave dates, employee must notify employer of change in writing: (a) at least 4 weeks before expected return date, or (b) if employee gets notice earlier than 4 weeks from the expected return date, as soon as practicable after getting notice of the change; Employer not required to extend leave if it would last longer than 18 months from start date in total; (7) **Return:** If employee doesn't provide the required notice, employer may postpone return date by up to 2 weeks after the date the employee gives notice, unless the postponement would result in a return date that's earlier than the revised return date; and (8) **Exemption:** Employer who gets request for leave or extension may ask the Director for an exemption if granting the leave or exemption would: (a) adversely affect the health or safety of the workplace or public, or; (b) cause the employer undue hardship (*Employment Standards Act*, Sec. 44.031)

NEWFOUNDLAND

(1) **Eligibility:** At least 6 consecutive months' employment; (2) **Cap:** No second/subsequent leave unless at least 12 months pass since employee returns from first leave; (3) **Covered activities:** Deployment or training required for imminent deployment, including (a) treatment, recovery or rehabilitation for a physical or mental health problem resulting from deployment or training required for imminent deployment, and (b) Class "C" Reserve Service under the NDA Regulations; (4) **Notice:** Employee must give employer at least 60 days' written notice of start and end dates before start date, or as much notices as "reasonable in the circumstances" if 60 days' notice is impossible due to circumstances beyond employee's control; (5) **Verification:** Employer may require employee to provide certification from an official with the Reserves stating that the employee is a reservist and is required for service; (6) **Change in leave length:** (a) Where anticipated date of end of service changes, employee must notify employer as soon as practicable and, within at least 2 weeks or 1 pay period, give written notice of the new end date; and (b) If employee doesn't provide written notice of the new end date, employer may defer return for up to 2 weeks or 1 pay period, whichever is longer; and (7) **Exemption:** Employer may ask Director for an exemption on the grounds that granting the leave would cause the employer undue hardship (*Labour Standards Act*, Secs. 43.17 to 43.20)

NOVA SCOTIA

(1) **Eligibility:** At least 3 months' employment; (2) **Cap:** No more than 24 months' total leave in any 60-month period; (3) **Covered activities:** (a) deployment to a Canadian Forces operation, or engagement in a required pre- or post-deployment activity required by the Canadian Forces in connection with a deployment; (b) training required by the Canadian Forces, including Canadian Forces military skills training; or (c) time in relation to an operation, activity or training referred to in subclause (a) or (b), for (i) travel from or to the employee's residence in connection with the operation, activity or training, or (ii) treatment, recovery or rehabilitation for a physical or mental health problem resulting from engagement in the operation, activity or training; (4) **Notice:** Employee must give employer at least

4 weeks' written notice of start, end and return dates before start date, or as much notices as "reasonably practicable" if 4 weeks' notice is impossible due to circumstances beyond employee's control; (5) **Verification:** Employer may require employee to provide certificate from an official with the Reserves: (a) stating that the employee is a reservist and is required for service; and (b) where possible, specifying the expected dates for period of service; (6) **Change in leave length:** If dates change: (a) employee must give employer at least 4 weeks' written notice of the new start, end or return date or end date of the leave or the new anticipated date of return to work; and (b) return to work no later than (i) 4 weeks after period of service ends, or (ii) if the period of service consists of training other than deployment, the next regularly scheduled working day following period of service; and (7) **Return:** If employee gets less than 4 weeks' notice that the service period start or end date will change, he/she must notify employer of the new leave start or end date and any anticipated change in the return date: (a) as soon as reasonably practicable; and (b) in writing, unless it's not reasonably practicable to do so (*Labour Standards Code, Sec. 60H*)

ONTARIO

(1) **Eligibility:** At least 3 consecutive months' employment; (2) **Covered activities:** Deployment to a Canadian Forces operation outside Canada; (b) Deployment to a Canadian Forces operation inside Canada that is or will be providing assistance in an emergency or aftermath; or (c) Participating in Canadian Armed Forces military skills training; (3) **Notice:** Employee must give employer "reasonable" written notice of day leave begins or, if that's not possible, "as soon as possible" after leave starts; (4) **Verification:** Employer may require employee to provide reasonable evidence in the circumstances of his/her entitlement to the leave at a time reasonable in the circumstances; and (5) **Return:** (a) Employee must give employer written reasonable notice of date he/she intends to end the leave; and (b) Employer may postpone reinstatement for 2 weeks after day on which leave ends or 1 pay period, whichever is later (*Employment Standards Act, Sec. 50.2*)

PRINCE EDWARD ISLAND

(1) **Eligibility:** At least 6 consecutive months' employment; (2) **Covered activities:** Active duty or training in the Reserves; (3) **Notice:** Employee must give employer written notice "as soon as is reasonable and practical in the circumstances" of anticipated leave start and end date; (4) **Verification:** Employer may require employee to provide reasonable verification of need for leave, including a certificate from an official with the Reserves stating: (a) that the employee is a reservist and is required for service; and (b) if possible, the expected start and end dates for the period of service; and (5) **Return:** (a) Employee must provide employer written notice of expected return date; and (b) Employer may postpone return for up to 2 weeks or 1 pay period, whichever is longer (*Employment Standards Act, Sec. 23.1*)

QUÉBEC

(1) **Covered activities:** (a) if employee has 12 months' uninterrupted service, to take part in a Canadian Forces operation outside Canada, including preparation, training, rest and transportation from the reservist's place of residence and back, for up to 18 months; (b) to take part in a Canadian Forces operation in Canada whose purpose is to: (i) provide assistance in a major disaster, (ii) aid the civil power, on request of the Attorney General of Québec under the NDA, or (iii) intervene in any other emergency situation designated by the Government; (c) to take part in the annual training for the period prescribed by regulation or, if no such period is prescribed,

for a period of no more than 15 days; or

(d) to take part in any other Canadian Forces operation, on the conditions and for the period prescribed by regulation; (2) **Cap:** If first leave lasts more than 12 weeks, employee can't take second or subsequent reservist leave until at least 12 months after return date; (3) **Notice:** At least 4 weeks in writing of reason for leave, start date and expected duration, but notice may be shorter "for serious cause," in which case employee must notify "as soon as possible;" (4) **Change in leave length:** Employee may return early upon at least 3 weeks' written notice; (5) **Verification:** Upon request, employee must give employer a document justifying the absence (*Labour Standards Act*, Secs. 81.17.1 to 81.17.6)

SASKATCHEWAN

(1) **Eligibility:** Over 13 consecutive weeks' employment; (2) **Covered activities:** Training and active service with the reserve force, including regular and emergency deployment; (3) **Notice:** At least 4 weeks' written notice of day on which employee intends to start and return from leave unless those dates aren't known and can't be reasonably known by employee, in which case employee must furnish dates as far as possible in advance; (4) **Return:** Notice of return not required if leave lasts 60 days or less; and (5) **Verification:** Employer may require employee to provide written evidence to verify need for leave (*Sask Employment Act*, Secs. 2-43, 2-45 to 2.47, and 2-53)

NORTHWEST TERRITORIES

(1) **Eligibility:** At least 6 consecutive months' employment; (2) **Cap:** No second/subsequent leave for other than a training activity unless at least 12 months pass since employee returns from first leave for other than a training activity; (3) **Covered activities:** (a) Participation in an operation, exercise, training or other military activity; (b) Treatment, recovery or rehabilitation from a physical or mental health problem resulting from above participation; and (c) Training activity if: (i) for no longer than 15 days, and (ii) start date for leave is at least 1 year after date the employee returned to work following the most recent previous reservist leave taken to participate in a training activity; (4) **Notice:** At least 4 weeks' written notice of start and end dates, or notice at "earliest reasonable opportunity" if 4 weeks' notice is "unreasonable in circumstances;" (5) **Verification:** Employer may require employee to provide certification from an official with the reserve force stating that the employee is a reservist and is required for service; (6) **Change in leave end date:** If expected end date changes, the employee must give employer written notice of the new end date at "earliest reasonable opportunity;" and (7) **Exemption:** Employer may ask Employment Standards Officer for an exemption on the grounds that granting the leave would cause the employer "undue hardship," which Regs. define as excessive financial cost or disruption to employer's business or undertaking based on its effect on the business or undertaking's: (a) financial stability and profitability; (b) essence or purpose; and (c) employees, customers or clients (*Employment Standards Act*, Secs. 32.1 and 32.2)

NUNAVUT

(1) **Eligibility:** At least 6 consecutive months' employment—Exception: No previous employment required if leave is for an emergency situation; (2) **Covered activities:** (a) Participation in an operation, exercise, training, search and rescue operation, emergency situation or other military activity; and (b) Treatment, recovery or rehabilitation for a physical or mental health problem resulting from above

participation; (3) **Notice:** At least 4 weeks' written notice of start and end dates, or notice at "earliest reasonable opportunity" if 4 weeks' notice is "unreasonable in circumstances;" Exception: No notice required if leave is for an emergency situation; (4) **Verification:** Employer may require employee to provide certification from an official with the reserve force stating that the employee is a reservist and is required for service; (5) **Change in leave end date:** If expected end date changes, the employee must give employer written notice of the new end date at "earliest reasonable opportunity;" and (6) **Exemption:** Employer may ask Labour Standards Officer for an exemption on the grounds that granting the leave would cause the employer "undue hardship" (*Labour Standards Act*, Secs. 39.9 to 39.13)

YUKON

(1) **Eligibility:** At least 6 consecutive months' continuous employment; (2) **Covered activities:** (a) Operation designated by Minister of National Defence, including preparation, training, rest or travel from or to employee's residence; (b) Activity set out in the Regulations; (c) Annual training for up to 15 days; (d) Training ordered under paragraph 33(2)(a) of the NDA; (e) Duties called out on service to perform under paragraph 33(2)(b) of NDA; (f) Service in aid of a civil power for which they're called out under section 275 of NDA; or (g) Treatment, recovery or rehabilitation for a physical or mental health problem resulting from above service, operation or activity; (4) **Notice:** At least 4 weeks' written notice of start and end dates, or "as soon as practicable," if there's a valid reason for not providing 4 weeks' notice; (5) **Verification:** Upon request, employee must give employer a document from his/her commanding officer specifying that the employee is taking part in an operation or activity, or other required verification of leave specified by regulations; (6) **Change in leave end date:** Unless there's a valid reason not to, employee who must notify employer of any change in the length of the leave at least 4 weeks before: (a) the new day on which leave is to end, if the employee is taking a shorter leave; or (b) the day that was most recently indicated for leave to end, if the employee is taking a longer leave; and (7) **Exemption:** Employee is not entitled to reserve force leave if Minister believes it would adversely affect public health or safety or cause undue hardship to the employer (*Employment Standards Act*, Secs. 60.05 to 60.10)