

APPENDIX A Family Caregiving Leave Legislation in Canada

Issue	Federal	B.C.	Alberta	Sask.	Manitoba	Ontario	Quebec	New Brunswick	Nova Scotia	P.E.I.	Nfld.	Yukon	N.W.T.	Nunavut
General														
Legislation	<i>Canada Labour Code</i> , R.S.C., 1985, c. L-2 <i>Employment Insurance Regulations</i> , S.O.R./96-332	<i>Employment Standards Act</i> , R.S.B.C., 1996, c.113. <i>Compassionate Care Leave Regulation</i> B.C. Reg. 281/2006 O.C. 738/2006	<i>Employment Standards Code</i> , R.S.A., 2000, c. E-9. <i>Employment Standards Regulations</i> (s.2(2))	<i>Labour Standards Act</i> , R.S.S., 1978, c. L-1 <i>Labour Standards Regulations</i> , 1995. c. L-1 Reg 5 (ss. 4-12)	<i>Employment Standards Code</i> , C.C.S.M., c. E110, S.M., 1998, c. 29 <i>Employment Standards Regulation</i> , Man. Reg. 6/2007	<i>Employment Standards Act</i> , S.O., 2000, c. 41 <i>Family Medical Leave – Prescribed Individuals</i> , O. Reg. 476/06	<i>An Act Respecting Labour Standards</i> , R.S.Q., c. N-1.1	<i>Employment Standards Act</i> , S.N.B., 1982, c. E-7.2 <i>New Brunswick Regulation</i> 85-179	<i>Labour Standards Code</i> , R.S. N.S., 1989 c. 246 <i>General Labour Standards Code Regulations</i> , N.S. Reg. 298/90	<i>Employment Standards Act</i> , R.S.P.E.I., 1988, c. E-6.2	<i>Labour Standards Act</i> , R.S.N.L., 1990, c. L-2 <i>Labour Standards Regulations</i> , C.N.L.R. 781/96	<i>Employment Standards Act</i> , R.S.Y., 2002, c. 72 <i>Act to Amend the Employment Standards Act</i> , S.Y. 2003 (<i>Employment Standards General Exemption Regulation</i> , s. 3).	<i>Employment Standards Act</i> , S.N.W.T. 2007, c. 13 <i>Employment Standards Regulations</i> , ss. 2-4).	<i>Labour Standards Act</i> , R.S.N.W.T. 1988, c. L-1
Short term leave	None	Family Responsibility Leave [s. 52]	None	Illness or Injury Leave [s. 44.2(1)(b)(ii)]	Family Responsibility Leave [s. 59.3]	Personal Emergency Leave [s. 50]	Family Responsibility Leave [s. 79.7]	Family Responsibility Leave [s. 44.022]	Sick Leave [s. 60G]	Family Leave [s. 22.1]	Sick and Family Responsibility Leave [s. 43.11]	None	None	None
Long term leave	Compassionate Care Leave [s. 206.3]	Compassionate Care Leave [s. 52.1]	None	Serious Illness or Injury Leave [s.44.2(1)(b)] s. 44.2(1.2) s. 44.2 (2)	Compassionate Care Leave [s. 59.2]	Family Medical Leave [s. 49.1]	Illness or Accident Absence [s. 79.8]	Compassionate Care Leave [s. 44.024]	Compassionate Care Leave [s. 60E]	Compassionate Care Leave [s. 22.3]	Compassionate Care Leave [ss. 43.13 & 43.14]	Compassionate Care Leave [s. 60.1]	Compassionate Care Leave [s. 30]	Compassionate Care Leave [s. 39.1]
Who does the Act apply to?	Employees of any federal work, undertaking or business Does not apply to managers, or members of the certain professions.	Employees not covered by the federal law. Does not apply to members of the certain professions. (<i>Employment Standards Regulation</i> , s. 31)	Employees not covered by the federal law. Does not apply to members of the certain professions. (<i>Employment Standards Regulations</i> , s. 2(2),)	Employees not covered by the federal law. Does not apply to members of the certain professions. (<i>Labour Standards Regulations</i> , ss. 4 – 12).	Employees not covered by the federal law. Does not apply to members of the certain professions. (<i>Employment Standards Regulation</i> , ss. 2 – 8,).	Employees not covered by the federal law. Does not apply to members of the certain professions. (<i>Exemptions, Special Rules and Establishment of Minimum Wage</i> O. Reg. 285/01, s.2).	Employees not covered by the federal law. Does not apply to health care professionals, persons working in employment assistance measures, embassy workers.	Employees not covered by the federal law. Professionals are not exempt from the leave provisions. (<i>New Brunswick Regulation 85-179</i> , ss. 3 – 4).	Employees not covered by the federal law. Does not apply to members of the certain professions. (<i>General Labour Standards Code Regulations</i> , s. 2)	Employees not covered by the federal law. Does not apply to commission salespersons, farm labourers, employees of non-profits and certain caregivers (<i>Employment Standards Act</i> , s. 2).	Employees not covered by the federal law. Does not apply to members of the certain professions (<i>Labour Standards Act</i> , s. 2(b))	Employees not covered by the federal law. Does not apply to government employees, caretakers guides, and others (<i>Employment Standards General Exemption Regulation</i> , s. 3).	Employees not covered by the federal law. Does not apply to live in caregivers, student interns, drivers (<i>Employment Standards Regulations</i> , ss. 2-4).	Employees not covered by the federal law. Does not apply to members of the certain professions, as well as trappers (<i>Labour Standards Act</i> , s.2).
Short Term Leave														
Duration of leave per year	None	5 days	None	12 days	3 days	10 days (if more than 50 employees).	10 days	3 days	3 days	3 days	7 days	None	None	None

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Eligibility criteria	N/A	To meet the care, health or education of a child in the employee's care, or the care or health of any other member of the employee's immediate family.	N/A	Must provide medical certificate certifying that immediate family member is incapable of working due to illness or injury.	Necessary for the employee to meet his or her family responsibilities in relation to a family member.	Leave due to the death, illness, injury medical emergency, or urgent matter relating to prescribed individuals. *May combine with long term leave.	Relating to care, health or education of the employee's child or spouse's child, or because of the health of prescribed individuals.	To meet responsibilities related to health, care, or education of a person in a close family relationship with the employee.	Leave due to sickness of child, parent, or family member.	To meet responsibilities related to health or care of a person who is a member of the immediate family or extended family of the employee.	Must provide statement in writing of the nature of the family responsibility where the leave is of 3 or more consecutive days.	N/A	N/A	N/A
Accumulates with sick leave	N/A	No	N/A	Yes	Yes	Yes	No	No	Yes	No	Yes	N/A	N/A	N/A
Notice required	N/A	No	N/A	No	As much as is reasonable & practicable.	No - must advise employer.	As soon as possible	Advise of anticipated commencement date & duration.	No	Advise of anticipated commencement date & duration.	Written statement for leave longer than 3 days.	N/A	N/A	N/A
Length of service for eligibility	N/A	No	N/A	13 consecutive weeks	30 days	No	No	No	No	6 months	30 days	N/A	N/A	N/A
Definition of family member	N/A	Spouse, child, parent, guardian, sibling, grandchild or grandparent of an employee, and any person who lives with an employee as a member of the employee's family	N/A	Dependent spouse (CL and/or parent of child), parent, grandparent, child, brother, sister of an employee or spouse *Regs define "immediate family" as: -spouse -parent, grandparent, child, brother, or sister of an employee or their spouse	Spouse/CL (conjugal relationship of some permanence) -child or a child of the employee's spouse/CL; -a parent or a spouse/CL of the parent; and -any other person who is a member of a class of persons prescribed in the regulations	Spouse, brother, sister, Parent (step, foster) of employee or their spouse -child, (step, foster) of employee or their spouse -grandparent (step), grandchild (step), of employee or their spouse -child's spouse -relative dependent for care or assistance	Spouse, father, mother, brother, sister, or grandparents	Close family relationship between married persons, parent and child, siblings, grandparent and grandchild, unmarried or unrelated persons who demonstrate an intention to extend to one another the mutual affection and support normally associated w/ the relationships first mentioned.	(See appendix)	Spouse/CL, child, parent, brother, or sister Extended family: -grandparent, grandchild, brother-in-law, sister-in-law, mother-in-law, father-in-law, son-in-law, or daughter-in-law	Undefined in act or regulations	N/A	N/A	N/A

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Long Term Leave														
Long term leave per year	8 weeks	8 weeks.	None	12 weeks -16 weeks if receiving EI. -26 weeks if receiving WCB.	8 weeks	8 weeks Can be combined with short term leave.	12 weeks 104 weeks in the case of potentially ill minor child,	8 weeks	8 weeks	8 weeks	8 weeks	8 weeks	8 weeks	8 weeks
Eligibility criteria	Medical certificate stating serious medical condition with a significant risk of death within 26 weeks.	Medical certificate stating serious medical condition with a significant risk of death within 26 weeks.	N/A	Medical certificate stating incapable of working due to illness or injury.	Medical certificate stating serious medical condition with a significant risk of death within 26 weeks.	Medical certificate stating serious medical condition with a significant risk of death within 26 weeks.	for the 104 week leave: medical certificate stating serious medical condition with a significant risk of death within 26 weeks.	Medical certificate stating serious medical condition with a significant risk of death within 26 weeks.	Medical certificate stating serious medical condition with a significant risk of death within 26 weeks.	Medical certificate stating serious medical condition with a significant risk of death within 26 weeks.	Medical certificate stating serious medical condition with a significant risk of death within 26 weeks.	Medical certificate stating serious medical condition with a significant risk of death within 26 weeks.	Medical certificate stating serious medical condition with a significant risk of death within 26 weeks.	Medical certificate stating serious medical condition with a significant risk of death within 26 weeks.
Constraints on leave	Units of one or more weeks.	Units of one or more weeks.	N/A	No	1 week minimum	1 week minimum	No	1 week minimum	1 week minimum	1 week minimum	1 week minimum	1 week minimum	1 week minimum	1 week minimum
Notice required	No	No	N/A	No	1 pay period unless circumstances necessitate a shorter period.	Advise employer in writing.	No	Advise of anticipated commencement date and duration.	As soon as possible.	No	2 weeks unless valid reason otherwise	No	No	No
Length of service for eligibility	No	No	N/A	13 consecutive weeks	30 days	No	3 months	No	3 months	No	30 days	No	No	No
Risk of death?	Yes	Yes	N/A	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Renewable	No	Yes	N/A	No	No	Yes	No	No	No	No	No	No	No	No
Definition of family member	Spouse/CL (1 yr.), child of employee or employee's spouse/CL, parent of employee or employee's spouse/CL, any person defined in <i>EI Act</i> s. 23.1(1).	a member of an employee's immediate family -any other individuals member of a prescribed class [ESA, s. 52.1(1)]	N/A	Same definition as short term leave.	Same definition as short term leave.	Spouse, parent, step-parent, foster parent, child, step-child, foster child (or that of their spouse -any individual prescribed as a family member	Child, spouse -child of spouse -father -mother -spouse of father/mother -brother -sister grandparents	Same definition as short term leave.	-spouse/CL (1 yr), child or child of spouse or CL, parent or parent's spouse/CL -any other person member of a prescribed class.	-spouse/CL, child, parent, brother, sister, and any other person prescribed by regulations. [Note: regulations are silent on this issue]	-spouse/CL (1 yrs.), child or spouse/CL's child, parent or CL partner of parent or employee or spouse, any other person as defined in regulations	-spouse,/CL -child or child of spouse/CL -parent, parent of spouse/CL or CL of parent -any other person prescribed in 41.11(1) of <i>EI Regulations</i>	-spouse, child, child of spouse, parent, spouse of parent, any other person in <i>EI Act</i> , s. 23.1(1) or s. 206.3(1) of <i>Canada Labour Code</i>	Same as in the <i>Federal Canada Labour Code</i> . (s. 206.3(1))