## PROTECTED LEAVES

[Organization Name] respects qualified employees' right to take job-protected leave without fear of repercussions. As a result, [Organization Name] is committed to adhering to the guidelines established by Manitoba's [Employment Standard Code (ESC)](https://web2.gov.mb.ca/laws/statutes/ccsm/d093e.php) regarding job-protected leaves.

DEFINITION

"Family members" refers to:

* a spouse or common-law partner of the employee;
* a child of the employee or a child of the employee's spouse or common-law partner;
* the employee's parent or the parent's spouse or common-law partner; and
* any other person who is a member of a class of persons prescribed in the regulations for the purpose of this definition.

POLICY

The purpose of this policy is to outline the job-protected leaves employees have a right to take under the ESC so that:

* Employees know their rights; and
* [Organization Name] manages employee leave in a fair manner.

[Organization Name] will adhere to all regulations covered under the ESC.

**Protected Leaves:**

There are fifteen (15) protected leaves that employees may take without fear of losing their jobs. They are:

1. Maternity Leave
2. Parental Leave
3. Family Leave
4. Bereavement Leave
5. Compassionate Care Leave
6. Long-Term Leave for Serious Injury or Illness
7. Interpersonal Violence Leave
8. Citizenship Leave
9. Leave Related to Critical Illness
10. Leave Related to Death or Disappearance of a Child
11. Reservist Leave
12. Leave for Organ Donation
13. Public Health Emergency Leave
14. Voting Leave
15. Jury Duty Leave

**Maternity Leave**

A pregnant employee who has worked for [Organization Name] for at least 7 months is eligible for unpaid maternity leave as per the following:

* leave for a period of no more than 17 weeks if the date of delivery is on or before the date estimated in a medical certificate; or
* 17 weeks plus the time between the estimated date and the date of delivery if the date of delivery is after the estimated date.

Maternity leave begins no earlier than 17 weeks before the estimated date of delivery on the medical certificate and ends no later than 17 weeks after the date of delivery. Employees are asked to provide the organization with at least four weeks' written notice of the start date of maternity leave. An employee who is eligible for maternity leave but does not give four weeks' notice before taking leave is still entitled to maternity leave if, within two weeks of stopping work, she gives notice and provides [Organization Name] with a medical certificate containing the following information:

* date of delivery or estimated date of delivery; and
* any period or periods within the 17 weeks preceding the date of delivery or estimated date of delivery when normal duties of employment could not be performed due to a pregnancy-related medical condition

An employee is entitled to the following maternity leave:

* any time she does not work within 17 weeks of the date of delivery or the estimated date of delivery; and
* the difference between that time and the time she would receive if she were entitled to a period of no more than 17 weeks because the date of delivery is on or before the date estimated in a medical certificate.
* An employee who is eligible for maternity leave but fails to give notice four weeks before or two weeks after leaving is still entitled to maternity leave for a period not exceeding the time she would receive if the date of delivery is on or before the date estimated in a medical certificate, or if the date of delivery is after the estimated date.

An employee's maternity leave must end no later than 17 weeks after the date of delivery. Maternity leave for an employee ends:

* 17 weeks after it begins; or
* 17 weeks after it begins if the date of delivery is after the estimated date plus the additional time provided for in that clause.

An employee may terminate maternity leave earlier by providing written notice at least two weeks or one pay period before the day she wishes to end the leave, whichever is longer.

**Parental Leave**

* An employee who adopts or becomes a parent is entitled to unpaid parental leave for up to 63 weeks if:
  + they have been employed by [Organization Name] for at least seven consecutive months;
  + they give written notice to the employer at least four weeks before the day specified in the notice as the day the employee intends to begin the leave; and
  + adoptions are recognized by Manitoba law.
* An employee who gives less than four weeks' notice is entitled to 63 weeks of parental leave minus the number of days given in lieu of four weeks' notice.
* Parental leave begins no later than 18 months after the child is born, adopted, or comes into the employee's care and custody.
* Unless the employee and the employer agree otherwise or a collective agreement provides otherwise, an employee who takes maternity leave and parental leave must take them in one continuous period.
* An employee's parental leave ends
  + 63 weeks after it begins, or
  + if less than four weeks' notice is given, 63 weeks after it begins less the number of days specified in the notice.
* If the employee's child was born, adopted, or came into the employee's care and custody before the day this section went into effect, the employee's parental leave ends
  + 37 weeks after it began; or
  + if an employee gives less than four weeks' notice, the parental leave ends 37 weeks after it began less the number of days specified in the notice.
* An employee may end parental leave earlier than the date specified by providing written notice at least two weeks or one pay period before the day the employee wishes to end the leave, whichever is longer.

**Family Leave**

An employee who has been with [Organization Name] for at least 30 days may take up to three days of unpaid leave per year, but only if the leave is required for the following reasons:

* the employee's health; or
* the employee's ability to meet their family responsibilities in relation to a family member.

Employees who wish to take leave must give [Organization Name] as much notice as is reasonable and practicable in the circumstances. The employee may be required by the employer to provide reasonable proof of the need for the leave.

If an employee takes any part of a day as leave under this section, the employer may count that day as a full day of leave under this section.

**Bereavement Leave**

Bereavement leave is made up of two parts: unpaid leave for the death of a family member and unpaid leave for a pregnancy loss. These leaves are available to employees who have been employed with [Organization Name] for at least 30 days.

For unpaid leave for the death of a family member, employees are permitted to take up to five days as bereavement leave to deal with the death of a family member.

Family could include: Children, stepchildren, parents, grandparents, spouses, common law spouses, brothers, sisters, step-brothers, step-sisters, aunts, uncles, and nieces and nephews. The definition also includes those who are not related, but whom the employee considers to be like a close relative.

For unpaid leave for a pregnancy loss, employees are permitted to take up to five days to deal with the loss of a pregnancy. This leave is available for:

* The employee who experiences a loss of pregnancy,
* That employee’s current spouse or common-law partner,
* That employee’s former spouse or common-law partner,
* The former spouse or common-law partner’s current spouse or common-law partner,
* An employee who had undertaken to be the guardian of the child born as a result of the pregnancy,
* That employee’s spouse or common-law partner.

Before taking leave, the employee must notify the employer of the length and timing of the leave, as well as the death to which it is related. If the organization requests it, the employee must provide reasonable proof of their right to leave. If an employee takes any part of a day as bereavement leave, [Organization Name] may count that day as a full day of bereavement leave.

**Compassionate Care Leave**

An employee who has worked for [Organization Name] for at least 90 days is entitled to up to 28 weeks of unpaid compassionate care leave to care for or support a seriously ill family member.

To be eligible for leave, an employee must have a physician issue a certificate stating that:

* a family member of the employee has a serious medical condition with a significant risk of death within 28 weeks of
  + the date the certificate is issued, or
  + if the leave began before the certificate was issued, the day the leave began; and
  + the family member requires the care or support of one or more employees.

Compassionate care leave may be taken after the expiration of the 28-week period specified in the physician's certificate, and no additional certificate is required.

Employees who wish to take compassionate care leave must give at least one pay period's notice unless circumstances require a shorter period. As soon as possible, the employee must provide a copy of the physician's certificate.

An employee may take no more than two periods of leave totalling no more than 28 weeks, with the first period of leave ends, no later than 52 weeks after it began. There may be no leave of less than one week's duration. Unless the employee and their manager agree otherwise, an employee may end a leave earlier than the 28-week limit by providing at least 48 hours' notice of their expected return date.

**Long-Term Leave for Serious Injury or Illness**

* If an employee has been employed by [Organization Name] for at least 90 days and is seriously injured or ill, the employee is entitled to an unpaid leave of absence of up to 27 weeks in any 52-week period.
* In order for an employee to be eligible for leave, a physician must issue a certificate demonstrating that the employee is expected to be unable to work for at least two weeks due to a serious injury or illness.
* An employee who wishes to take a long-term leave of absence due to a serious injury or illness must provide as much notice as is reasonable and practicable in the circumstances.
* As soon as possible, the employee must provide a copy of the physician's certificate.
* Unless the employee and their manager otherwise agree or a collective agreement otherwise provides, an employee who takes a long-term leave for serious injury or illness must take the leave in one continuous period.
* Unless the employee and their manager agree otherwise, an employee may end a leave earlier than the 27-week limit by giving written notice at least two weeks before the end date.
* Management may require the employee to provide a certificate issued by a physician stating that the employee is fit to return to work before the employee returns to work.

**Interpersonal Violence Leave**

An employee is entitled to interpersonal violence leave if they are a victim of interpersonal violence, and have worked for the same employer for at least 90 days.

* In each 52-week period, an employee is entitled to both the following periods of interpersonal violence leave:
  + leave of up to 10 days, which the employee may take intermittently or in one continuous period; and
  + leave of up to 17 weeks, which must be taken in one continuous period.
* An employee may take interpersonal violence leave only for one or more of the following reasons, as they relate to the employee or a dependent:
  + to seek medical attention for a physical or psychological injury or disability;
  + to obtain services from a victim services organization;
  + to obtain psychological or other professional counselling; or
  + to relocate temporarily or permanently;
  + to seek legal or law enforcement assistance, including preparation for or participation in any civil or criminal legal proceeding related to or resulting from interpersonal violence; and
  + any other prescribed purpose
* Interpersonal violence leave is primarily unpaid leave, although up to 5 days of paid leave may be taken in a 52-week period, provided the employee notifies the employer which days are to be paid leave.
* The amount an employee must receive for a paid day of leave if they choose to take paid leave, cannot be less than
  + the wage the employee would have received if they had worked their regular hours of work on the day of leave; or
  + 5% of the employee's total wages, excluding overtime, for the four-week period immediately preceding the day of leave if the number of hours worked by the employee in a typical workday and the employee's wage for regular hours of work vary from day to day,
* Unless otherwise provided in a collective agreement, and despite the fact that vacation and leave entitlements are not reduced, [Organization Name] may require an employee to use paid sick leave benefits or other paid leave benefits that are greater than the minimum required by ESC for paid days of leave.
* If an employee takes any portion of a day off, [Organization Name] may consider that day to be interpersonal violence leave.
* If an employee wishes to take an interpersonal violence leave, they must provide as much notice as is reasonable and practicable under the circumstances.
* Unless the employee and [Organization Name] agree otherwise, an employee may end a leave earlier than the 17-week limit by giving written notice at least two weeks before the end date.
* An employee who takes a paid interpersonal violence leave must provide reasonable verification of the need for the leave that meets the regulatory requirements if any.
* The organization may require an employee who takes unpaid interpersonal violence leave to provide reasonable verification of the need for the leave that meets the regulatory requirements.

**Citizenship Leave**

An employee who has been with the company for at least 30 days may take up to four hours of unpaid leave to attend a citizenship ceremony and receive a certificate of citizenship, as provided for by the Citizenship Act (Canada) and its regulations.

Before taking a citizenship leave, the employee must provide at least 14 days' notice or as much notice as is reasonable and practicable in the circumstances. If the organization requests it, the employee must provide proof of their right to leave.

**Leave Related to Critical Illness**

Leave related to critical illness provides an unpaid leave to permit employees to provide care and support for a critically ill family member. Critical illness is defined as a life-threatening illness or injury to the family member.

* An employee who is a family member of a critically ill child under 18 years old who has worked for [Organization Name] for at least 30 days is entitled to the leave.
  + Employees can take up to 37 weeks of leave within a 52 week period to provide care or support to a critically ill child under 18 years old.
* An employee who is a family member of a critically ill adult who has worked for [Organization Name] for at least 90 days is entitled to the leave.
  + Employees can take up to 17 weeks of leave within a 52 week period to provide care or support to a critically ill adult.

Employees can take the leave in one or more periods, however, each period must be at least one week long. Employees are requested to provide one pay period’s notice of the need for the leave, along with a doctor’s certificate. However, if it is an emergency, employees may take the leave with less notice as necessary. To return from leave, employees are requested to provide one pay period’s notice of their intention. Note: this leave can be repeated as necessary.

**Leave Related to Death or Disappearance of a Child**

An employee who has worked for [Organization Name] for at least 30 days is entitled to an unpaid leave of absence from work for up to 104 weeks if the employee is the parent of a child who died and it is likely, given the circumstances, that the child died as a result of a crime. An employee who has been with [Organization Name] for at least 30 days is entitled to an unpaid leave of absence from work for up to 52 weeks if the employee is the parent of a child who has gone missing and it is likely, given the circumstances, that the child went missing as a result of a crime. If an employee is charged with a crime, they are not entitled to a leave of absence related to the death or disappearance of a child.

Employees who wish to take leave due to the death or disappearance of a child must give at least one pay period's notice unless circumstances require a shorter period. As soon as possible, the employee must provide reasonable proof of the need for the leave. Unless the employee and [Organization Name] agree otherwise, an employee may end a leave earlier than the end of the leave period by providing written notice at least one pay period in advance.

**Reservist Leave**

An employee who is a member of the Reserves; has been employed by [Organization Name] for at least three consecutive months; and is required to be absent from work for the purpose of service is entitled to an unpaid period of leave for that service. The period of reservist leave is defined by the regulations as the time required to accommodate the period of service.

An employee who wishes to take reservist leave must provide as much notice in writing as is reasonable and practicable in the circumstances. The organization may require the employee to provide reasonable proof of the need for the leave, such as a certificate from a Reserves official stating that the employee is a member of the Reserves and is required for service; and, if possible, the expected start and end dates for the period of service.

An employee on reservist leave must provide written notice of when they expect to return to work. After receiving the notice, management may postpone the employee's return to work for up to two weeks or one pay period, whichever is longer.

### 

**Leave for Organ Donation**

This leave applies when an employee donates an organ or undergoes a surgical procedure involving the removal of an organ or tissue for transplant to another person.

An employee who has been with [Organization Name] for at least 30 days is entitled to up to 13 weeks of unpaid leave to donate an organ in the event that they are undergoing surgery to donate all or part of certain organs to a person.

The leave may be extended for employees in the event that a qualified medical practitioner asserts that the employee requires more time away from work. The maximum length of time for organ donor leave is 26 weeks.

An employee who wishes to take a leave for organ donation must provide the employer with:

* written notice that is reasonable and practicable in the circumstances,
* a medical certificate stating the start and end dates of the period required for the employee to donate the organ and recover from the procedure.

The employee has the right to take leave for the duration specified in the medical certificate.

If reasonable and practicable in the circumstances, an employee who wishes to extend a leave must provide written notice at least one pay period before extending the leave. An extended leave terminates on the date specified in the most recent medical certificate provided to the employer. Employees may end their leave earlier if they provide written notice at least one pay period before the day they wish to end their leave.

**Public Health Emergency Leave (COVID-19)**

An employee is entitled to unpaid public health emergency leave if, in relation to the COVID-19 pandemic, they are unable to work because

* the employee is under medical supervision, investigation or treatment;
* the employee, as a result of directions issued or provided by a health officer, health professional, Health Links-Info Santé, the Government of Manitoba or the Government of Canada,
  + is required to quarantine or isolate themselves, according to The Public Health Act, or
  + is subject to self-isolation or other measures that result in their inability to perform work;
* the employee is, in the opinion of a health professional or health officer, or according to information or directions provided by the Government of Manitoba or the Government of Canada, more vulnerable to COVID-19 because the employee
  + has a medical condition,
  + is going through medical treatment, or
  + has contracted a different illness;
* the employee, due to the employer's concern about the employee's exposure to others, has urged the employee not to work;
* the employee is providing a family member care or support needed to be \ as a result of the closure of a school or premises where child care is provided;
* the employee is overtly affected by travel restrictions and cannot reasonably be expected to go to their workplace;
* the employee is ordered under The Public Health Act;
* the employee is acting according to an order made under The Emergency Measures Act; or
* any other circumstances set by regulation.

Any leave under which quarantine is necessary, or a family member is cared for or supported, is conditional on any regulation.

This leave ends if the employee is clear from infection and certified fit for work or when the person is cared for by the employee.

A COVID-19 employee may have to provide an employer with a reasonable check of the need for leave as soon as possible.

**Voting Leave**

Eligible employees are entitled to take three (3) hours off to vote during work hours during federal and provincial elections. The leave will be applicable where an employee’s hours of work prevent them from having three consecutive hours to vote. The hours will be paid. Note that voting is open for 12 hours.

**Jury Duty Leave**

As per the *Jury Act* of Manitoba, employers must provide job-protected time away from work as necessary for employees to participate in jury duty. It is an offence under the Jury Act for employers to in any way penalize an employee due to that employee being summoned for jury service. This time can be paid or unpaid. Employees may be requested to provide evidence of the need for them to participate in jury duty.