



Labour

Information on **Labour Standards**

7

SICK LEAVE, WORK-RELATED ILLNESS AND INJURY LEAVE, AND LONG-TERM DISABILITY PLANS

Part III of the *Canada Labour Code* (Labour Standards)

The *Canada Labour Code* provides for leave for illness or injury in Division XIII, for work-related illness and injury in Division XIII.1 and for long-term disability plans in Division XIII.2.

The following questions and answers will be of interest to employers and employees under federal jurisdiction. Pamphlet 1 of this series describes the types of businesses covered by the Code. It is available from any Labour Program office of Employment and Social Development Canada (ESDC) – Labour Program and on the labour.gc.ca website.

Sick Leave

1. What are the sick leave provisions of the Code?

Generally, the Code provides protection against dismissal, lay-off, suspension, demotion or discipline because of absence due to illness or injury.

2. Who is entitled to sick leave protection?

Employees who have completed three consecutive months of employment with the same employer are entitled to sick leave protection.

3. For how long is an employee protected?

An employee is protected for any absence not exceeding 17 weeks.

4. Is a doctor's certificate required?

Yes. If the employer requests in writing a medical certificate within 15 days of an employee's return to work, the employee must provide one.

5. Is the employer required to continue salary payments while the employee is absent?

No. The Code provides job security only. There is no provision for paid leave of absence. Some employees, however, may be entitled to cash benefits under the *Employment Insurance Act* (EI).

Information about EI eligibility and benefits may be obtained at Service Canada by calling toll free at 1-800-622-6232 or by visiting their website at www.servicecanada.gc.ca.

6. Is the employer required to maintain employee benefit plans during absences under this provision?

Yes. Pension, health and disability benefits, and seniority continue to accrue during an employee's absence. The employee is responsible for any contributions normally required and must pay them within a reasonable time. The employer must continue to pay the same share of contributions as if the employee were not on leave, provided the employee makes the required contributions.

7. What happens if the employee does not make the required contributions? Does it affect the employee's employment status with the employer?

If the employee does not make the required contributions, the employer is not obliged to pay the employer's portion. It should be noted that failure to pay may affect the benefit plans themselves. Consequently, employees should find out from their employer the impact of non-payment. Nonetheless, failure to pay does not affect an employee's status with the employer. Service after the employee's return to work is deemed to be continuous with service prior to the absence.

Work-Related Illness and Injury

8. Who is entitled to leave due to a work-related illness or injury?

Any employee who has suffered a work-related illness or injury is entitled to leave. The employer may not dismiss, lay-off, demote or discipline any employee because of an absence of this nature.

9. What is an employer's obligation to an employee who has a work-related illness or injury?

Every employer shall subscribe to a plan that provides an employee who is absent from work due to work-related illness or injury with wage replacement. Such a wage replacement is payable at an equivalent rate to that provided under the applicable workers' compensation legislation in the employee's province of permanent residence.

10. Is the employer obliged to return an employee to work after the work-related illness or injury?

Yes. Subject to the *Canada Labour Standards Regulations*, the employer shall, where reasonably practicable, return an employee to work.

11. Under which circumstances may an employer reassign an employee after an absence due to work-related illness or injury?

An employer may assign to a different position, with different terms and conditions of employment, any employee who, after an absence due to work-related illness or injury, is unable to perform the work done prior to the absence.

12. Do benefits continue while an employee is absent due to work-related illness or injury?

Yes. See questions 6 and 7 of this pamphlet.

Long-Term Disability Plans

13. What is a long-term disability plan?

A long-term disability (LTD) plan is a benefit provided by an employer to its employees to protect them against the possibility of income loss due to a medical event that would make an employee unable to work for an extended period of time.

14. Is an employer required to have a LTD plan for their employees?

No, the Code does not require an employer to have a LTD plan for their employees. LTD plans are a discretionary benefit provided by an employer.

15. What is an employer's obligation who provides a LTD plan?

If an employer has an LTD plan, as of July 1, 2014 it must be insured. However, insurance is not required with respect to employees who are already receiving LTD benefits or have applied to receive benefits prior to this date.

An insurance contract guarantees the continued payment of benefits to an employee in the event their employer becomes insolvent or files for bankruptcy.

16. How can an employer insure their LTD plan?

An employer will need to contact their insurance provider who is licensed to provide insurance under the laws of a province. An employer may be required to furnish proof to a Labour Program inspector proving that their LTD plan is insured.

17. Is there a penalty for not insuring an LTD plan?

Employers who are found guilty and convicted of not insuring their LTD plan are subject to a fine under Part III of the *Canada Labour Code*, of not more than \$250,000 for the first and any subsequent offence.

This pamphlet is provided for information only. For interpretation and application purposes, please refer to Part III of the *Canada Labour Code* (Labour Standards), the *Canada Labour Standards Regulations*, and relevant amendments.

Information about these provisions may be obtained from the Labour Program by calling toll free at 1-800-641-4049, by visiting the website at www.labour.gc.ca or by submitting your questions or comments through the Labour Program [Contact Us](#) form.

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