



Labour Program: fair, safe and productive workplaces

Information on **LABOUR STANDARDS**

5A

Compassionate Care Leave

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

The *Canada Labour Code* provides for compassionate care leave in Division VII of Part III.

The following questions and answers will be of interest to employers and employees subject to federal jurisdiction. Information Sheet 1 – *Summary* of this series describes the types of businesses covered by the Code. It is available on the Government of Canada website at http://www.esdc.gc.ca/en/reports/labour_standards/index.page?.

1 What is meant by compassionate care leave?

Compassionate care leave is up to 28 weeks of leave that can be taken within a 52-week period to provide care and support to a gravely ill family member. It is available to all employees.

2 What must an employee do to be eligible for compassionate care leave?

An employee must obtain a medical certificate from a qualified medical practitioner, stating that the family member has a serious medical condition and as a result, there was a significant risk of death within 26 weeks.

An employee must give their employer written notice, as soon as the employee is able. The notice must contain reason(s) for the leave and the intended length of the leave. If the employee wishes to extend the length of the leave, another written notice must be provided to the employer as soon as the employee is able.

If requested by the employer in writing, the employee must provide a copy of the medical certificate within 15 days of the employee's return to work.

A new medical certificate is not required if the family member remains gravely ill after 26 weeks.

3 When does the leave end?

The leave ends on the last day of the week in which either the family member dies or the completion of the 28 weeks of leave.

4 Why is there a difference of two weeks between the 28-weeks of compassionate care leave under the *Canada Labour Code* and the 26-weeks of compassionate care benefits under the *Employment Insurance Act*?

The additional two weeks of compassionate care leave are to cover the two week waiting period that is added to the maximum 26-week compassionate care benefits available under the Employment Insurance Program.

5 Is the employer required to continue wage 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 benefits under the *Employment Insurance Act*.

Information about eligibility and benefits may be obtained from Service Canada by visiting their website at www.servicecanada.gc.ca/eng/ei/types/compassionate_care.shtml, calling their toll free number at 1-800-277-9914 or visiting a Service Canada Centre.

6 Who is considered to be a “family member”?

A “family member” is an individual related to an employee whose relationship is described under the Employment Insurance program. The relationship can include, but not limited to, a spouse or common-law partner, a child, a parent or any other person who is prescribed under the *Employment Insurance Act*. For a full list please refer to: http://www.servicecanada.gc.ca/eng/ei/faq/faq_compassionate_care_individuals.shtml#considered.

7 Is each family member entitled to 28 weeks of compassionate care leave to care for the same person?

No. However, the entitlement of 28 weeks of compassionate care leave may be shared by two or more employees who are under federal jurisdiction. The total amount of leave that may be taken by two or more employees in regard to the same family member is 28 weeks in the 52-week period. The minimum period of compassionate care leave that can be taken is one week

8 Can compassionate care leave be interrupted?

Yes. It is possible for an employee to interrupt compassionate care leave to take sick leave or work-related illness and injury leave. In such a case, compassionate care leave resumes immediately after the other leave ends.

9 What must an employee do if compassionate care leave is interrupted to take another leave?

An employee, who intends to interrupt compassionate care leave, must give the employer a written notice of the interruption before or as soon as the employee is able after it begins. A written notice of the day on which the employee intends to resume the compassionate care leave must be provided to the employer, before or as soon as the employee is able after that day.

10 Can compassionate care leave be renewed?

Compassionate care leave is up to 28 weeks of leave that can be taken within a 52-week period. It is possible for an employee to renew compassionate care leave but the renewal can only be requested at the end of the 52 weeks. If an employee uses all of the 28 weeks of Compassionate Care Leave within the first half of the 52 period, the employee must wait until the expiry of the initial 52 weeks before taking a further 28 weeks of leave.

11 What happens to the employee's job upon return from compassionate care leave?

The employee must be reinstated in her or his former position or be given a comparable position in the same location and with the same wages and benefits.

12 Could an employee ever receive lower pay upon returning to work?

Yes. If, during a leave period, the wages and benefits of a group of employees are reduced as part of a reorganization plan, an employee who is reinstated in that group will receive no more than the wages and benefits that the employee would have received if she or he had been at work during the reorganization.

Likewise, if wages and benefits for the employee's group are increased during leave, the employee would be entitled to the increases upon return to work.

13 Do pension, health and disability benefits and the seniority of the employee accumulate during leave?

Yes. These benefits continue during the leave period, provided an employee pays any contributions that would normally have been paid. Likewise, the accumulation of seniority continues during the absence.

14 What if an employee chooses not to pay normal contributions related to pension, health and disability benefits for the leave period?

Non-payment of contributions during leave period has no impact on the employee's employment status. These benefits may lapse during the leave period, but employment upon reinstatement is considered to be continuous with employment before the leave, for purposes of calculating future benefits.

15 Is the employer required to continue its contributions to the pension, health and disability benefits plan while the employee is on leave?

Yes. The employer must pay at least the same share of contributions as if the employee were not on leave, unless the employee does not pay their contributions.

16 Is an employee on leave entitled to receive information about opportunities for employment, training and promotion?

Yes. On the written request of the employee, the employer must inform the employee who is on leave of every employment, training or promotion opportunities that arise during the period of leave.

17 Can an employer dismiss or lay off an employee because the employee has taken or intends to take compassionate care leave?

No. An employer may not dismiss, suspend, layoff, demote or discipline an employee because the employee has taken or intends to take compassionate care leave. The employer also cannot take this leave into account in any decision to promote or train an employee.

18 When a collective agreement does not provide for compassionate care leave, is the employer still obliged to grant it?

Yes. The *Canada Labour Code* establishes minimum requirements. If a collective agreement or an arrangement exists, the most favorable provisions should be applied.

This document is provided for information purposes 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 http://www.esdc.gc.ca/en/jobs/workplace/employment_standards/labour/index.page or by submitting your questions or comments through the Labour Program [Contact Us](#) form.

Information on Labour Standards 5A – Compassionate Care Leave

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