



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. Publication 1 – *Summary* of this series describes the types of businesses covered by the Code. It is available on the Government of Canada website at <https://www.canada.ca/en/employment-social-development/services/labour-standards/reports.html>.

1 What is compassionate care leave?

Compassionate care leave is an unpaid leave that allows an employee to take up to 28 weeks of leave within a 52-week period to provide care and support to a family member who has a serious medical condition with a significant risk of death. It is available to all employees regardless of their length of service with their employer.

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

An employee must obtain a medical certificate from a medical doctor or from a nurse 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.

If requested by the employer in writing, the employee must provide the employer with a copy of the medical certificate within 15 days of the employee's return to work following the period of the compassionate care leave. An employee who refuses to produce a medical certificate at the employer's written request is not entitled to the compassionate care leave and the protections it provides.

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

An employee must also give the employer written notice, as soon as possible. The notice must advise the employer of the reason(s) for the leave and the intended length of the leave. If the leave taken is more than four weeks and the employee wants to change the length of his leave, a four weeks' notice must be provided to the employer, unless there is a valid reason why that cannot be done.

3 When does the leave begin and end?

The leave begins during one of the following weeks, whichever occurs first:

- the week the medical doctor or nurse practitioner signs the medical certificate; or
- the week the doctor or nurse practitioner examines the gravely ill family member; or
- the week the family member became gravely ill, if the doctor can determine that date (for example, the date of the test results).

The leave ends when:

- 28 weeks of compassionate care have been completed; or
- the gravely ill family member dies or no longer requires care or support; or
- the 52-week period has expired.

4 Can a compassionate care leave be taken simultaneously with a leave related to critical illness?

No, an employee may not take a leave related to compassionate care while:

- taking leave related to critical illness in respect of the same person; or
- one or more employees are taking leave related to critical illness in respect of the same person.

Both leaves must be taken separately; however, they can be taken consecutively if the employee is eligible.

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: <https://www.canada.ca/en/services/benefits/ei/ei-compassionate.html>.

7 Can compassionate care leave be interrupted or renewed?

Yes, it is possible for an employee to interrupt compassionate care leave to take sick leave or work-related illness and injury leave. The employee 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.

Yes, it is also possible for an employee to renew compassionate care leave; however, the employee must wait until the expiry of the initial 52 weeks before taking 28 weeks of leave.

If all of the 28 weeks of leave are not taken within the 52-week period, the employee will lose the remaining weeks.

8 Can compassionate care leave be divided in shorter, non-consecutive periods?

Yes. If a family member takes leave related to compassionate care, they will be entitled to a maximum of 28 weeks of leave within a 52-week period. Separate, non-consecutive shorter periods of leaves (not to exceed the 28 week maximum) can be taken within the 52-week period if the child or the adult has several episodes of serious medical condition, as long as a medical certificate is issued from a medical doctor or a nurse practitioner for each period of leave. A leave of absence for compassionate care can be taken in one or more periods of a minimum of one week in duration.

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

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

10 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.

As well, 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.

11 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.

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

If an employee does not pay their portion of contributions during leave period, it 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.

13 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.

14 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.

15 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.

16 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 publication 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 <https://www.canada.ca/en/employment-social-development/programs/employment-standards/federal-standards.html> or by submitting your questions or comments through the Labour Program [Contact Us](#) form.

Information on Labour Standards 5A – Compassionate Care Leave

This publication is available for download at canada.ca/publiccentre-ESDC.

It is also available upon request in multiple formats (large print, Braille, audio CD, e-text CD, or DAISY), by contacting 1 800 O-Canada (1-800-622-6232). By teletypewriter (TTY), call 1-800-926-9105.

© Her Majesty the Queen in Right of Canada, 2017

For information regarding reproduction rights: droitdauteur.copyright@HRSDC-RHDCC.gc.ca.

PDF

Cat. No.: Em7-1/5-1-2018E-PDF
ISBN: 978-0-660-24124-1

ESDC

Cat. No.: LT-172-12-17E