

Subdivision 10
General Rules re Employment Leave

Entitlement to apply for employment leave

2-43 An employee who has been in an employer's service for more than 13 consecutive weeks is entitled to an employment leave in accordance with this Subdivision and Subdivision 11.

2013, c.S-15.1, s.2-43.

Employer to grant employment leave

2-44 No employer shall fail to grant an employee an unpaid employment leave when required to do so by this Subdivision and Subdivision 11.

2013, c.S-15.1, s.2-44.

Human rights not affected

2-45 Nothing in this Subdivision or Subdivision 11 limits or abrogates an employee's rights at common law or pursuant to *The Saskatchewan Human Rights Code*.

2013, c.S-15.1, s.2-45.

Notice re employment leave

2-46(1) Subject to subsection (2) and section 2-49, an employee shall provide at least four weeks' written notice to his or her employer of:

- (a) the day on which the employee intends to commence an employment leave; and
- (b) the day on which the employee intends to return to work from the employment leave.

(2) The obligation to provide four weeks' written notice pursuant to subsection (1) does not apply:

- (a) to bereavement leave, compassionate care leave, critically ill child care leave, crime-related child death or disappearance leave and citizenship ceremony leave;
- (b) if the date of commencement of the employment leave or the date of return to work from the employment leave is not known and cannot be reasonably known by the employee;
- (c) with respect to the notice required for the employee's return to work, if the employment leave was for 60 days or less; or
- (d) if the prescribed circumstances apply.

(3) If an employee is not required to provide four weeks' written notice in accordance with subsection (2), the employee shall provide the employer with notice as far as possible in advance of the date the employee intends to commence the employment leave or of the date the employee intends to return to work, as the case may be.

2013, c.S-15.1, s.2-46.

Medical evidence

2-47(1) If an employment leave involves a medical issue and the employer so requires, the employee shall provide written evidence in the form of a certificate from a duly qualified medical practitioner as to the reason for the leave or the extension of the leave.

(2) If an employment leave requires the verification of other circumstances and if the employer so requires, the employee shall provide written evidence to verify those circumstances, in the prescribed manner.

2013, c.S-15.1, s.2-47.

Length of service, rights of recall, benefits and reinstatement

2-48(1) An employee continues to accrue seniority, service for the purposes of subclause 2-23(a)(ii) or (b)(ii) and rights of recall while on an employment leave or a combination of employment leaves for the length of the employment leave or combination of employment leaves to a maximum of 52 weeks.

(2) Subject to subsection (3) and to the provisions of a prescribed benefit plan, an employee continues to be entitled to participate in the prescribed benefit plan while on an employment leave or combination of employment leaves, for the length of the leave or leaves, if the employee pays the contributions required by the prescribed benefit plan.

(3) The requirement in subsection (2) for the employee to pay the contributions required by the prescribed benefit plan does not apply to a bereavement leave or a citizenship ceremony leave.

(4) At the expiration of an employment leave and subject to subsection (5), an employer shall reinstate an employee to the same job the employee held before going on employment leave, without any loss of accrued seniority or benefits or reduction in rate of pay.

(5) An employer may reinstate an employee, without any loss of accrued seniority or benefits or reduction in rate of pay, to a job comparable to that held by the employee before going on employment leave:

- (a) if the employment leave was for more than 60 days; or
- (b) if prescribed circumstances exist.

2013, c.S-15.1, s.2-48.

Subdivision 11
Employment Leave

Maternity leave

2-49(1) Subject to subsections (2) and (7), an employee who is pregnant is entitled to a maternity leave of 18 weeks commencing at any time during the period of 12 weeks preceding the estimated date of birth, and no later than the date of birth.

(2) If the actual date of birth is later than the estimated date of birth, the employee is entitled to not less than six weeks' leave after the actual date of birth.

(3) An employee may extend the leave for a further period of six weeks if the employee is unable for medical reasons to return to work after the expiration of the maternity leave.

(4) An employer shall modify an employee's duties or reassign the employee to other duties, without a decrease in wages or benefits, to accommodate a pregnancy if:

(a) the employee's duties or pregnancy would be unreasonably interfered with; and

(b) it is reasonably practicable to do so.

(5) An employer may require an employee to commence maternity leave not more than 12 weeks before the estimated date of birth if:

(a) the pregnancy of the employee would unreasonably interfere with the performance of the employee's duties; and

(b) no opportunity exists to modify the employee's duties or to reassign the employee to other duties.

(6) An employee whose pregnancy terminates on a date not more than 12 weeks before the estimated date of birth due to a miscarriage or a stillbirth may take a leave pursuant to this section.

(7) An employer shall grant a maternity leave in accordance with subsection (8) to an employee who:

(a) has failed to comply with clause 2-46(1)(a) but is otherwise entitled to maternity leave; and

(b) has not provided her employer with a certificate of a duly qualified medical practitioner certifying that there are bona fide medical reasons that require the employee to cease work immediately.

(8) Subject to subsection (2), the maternity leave to which an employee is entitled pursuant to subsection (7) is to consist of a period not exceeding 14 weeks commencing at any time during the period of eight weeks preceding the estimated date of birth.

Adoption leave

2-50 An employee is entitled to an adoption leave of 18 weeks commencing on the date on which the child comes into the employee's care or becomes available for adoption if the employee is to be the primary caregiver of the adopted child during the period of the leave.

2013, c.S-15.1, s.2-50.

Parental leave

2-51(1) An employee who is a parent of a newborn child or a newly adopted child is entitled to a parental leave of not more than:

- (a) 34 weeks, if the employee has taken a maternity leave or an adoption leave; or
 - (b) 37 weeks, in other cases.
- (2) A parental leave must be taken during the period of:
- (a) 12 weeks preceding the estimated date of birth or the estimated date on which the child is to come into the employee's care, as the case may be; and
 - (b) 52 weeks following the actual date of birth or the actual date on which the child comes into the employee's care.
- (3) If clause (1)(a) applies, the employee shall take the parental leave consecutive to the maternity leave or adoption leave, as the case may be.

2013, c.S-15.1, s.2-51.

Organ donation leave

2-52(1) In this section, "**organ donation**" means a surgical procedure that involves the removal of an organ or tissue from the employee for the purpose of its being transplanted into another individual.

(2) Subject to subsection (3), an employee is entitled to a leave for organ donation for the period, as certified by a duly qualified medical practitioner, required for the organ donation and recovery from the procedure.

(3) The maximum leave for an organ donation and recovery is 26 weeks.

2013, c.S-15.1, s.2-52.

Reserve force service leave

2-53(1) In this section:

- (a) "**reserve force**" means the reserve force as defined in the *National Defence Act* (Canada);
 - (b) "**service**" means training with the reserve force and active service with the reserve force, including regular and emergency deployment.
- (2) Subject to subsection (3), an employee is entitled to a reasonable period of leave for the employee's period of service with the reserve force.
- (3) The leave pursuant to this section must meet the prescribed requirements.

2013, c.S-15.1, s.2-53.

Nomination, candidate and public office leave

2-54(1) An employee is entitled to a leave:

- (a) to seek nomination as a candidate for a municipal, provincial or federal election or an election for a board of education or the Conseil scolaire fransaskois, for a reasonable period;
- (b) to be a candidate for a municipal, provincial or federal election or an election for a board of education or the Conseil scolaire fransaskois, for a reasonable period; or
- (c) if the employee has been elected to a municipal, provincial or federal government or a board of education or the Conseil scolaire fransaskois, for the period during the employee's term of office that may be necessary.

(2) Subsection 2-48(2) applies to an employee on a leave pursuant to subsection (1) for a maximum of 52 weeks.

2013, c.S-15.1, s.2-54.

Bereavement and compassionate care leave

2-55(1) An employee is entitled to a bereavement leave of five days in the case of the death of a member of the employee's immediate family.

(2) The leave mentioned in subsection (1) must be taken within the period commencing one week before and ending one week after the funeral relating to the death with respect to which the leave is granted.

2013, c.S-15.1, s.2-55.

Compassionate care

2-56(1) In this section, "**member of the employee's family**" means a member of a class of persons prescribed pursuant to the regulations made pursuant to the *Employment Insurance Act* (Canada).

(2) An employee is entitled to a compassionate care leave of up to eight weeks to provide care or support to a member of the employee's family who has a serious medical condition with a significant risk of death within 26 weeks from the date the leave commences.

(3) In a period of 52 weeks, an employee is not entitled to take more than two compassionate care leaves pursuant to subsection (2).

(4) An employee's compassionate care leave pursuant to subsection (2) ends:

- (a) if the employee is no longer providing care or support to the family member;
- (b) on the termination of the 26-week period mentioned in that subsection; or
- (c) on the death of the employee's family member.

2013, c.S-15.1, s.2-56.

Critically ill child care leave

2-57(1) In this section, “**critically ill child**” means a critically ill child within the meaning of the regulations made pursuant to the *Employment Insurance Act* (Canada).

(2) An employee is entitled to critically ill child care leave of up to 37 weeks to provide care and support to his or her critically ill child.

(3) An employee’s critically ill child care leave pursuant to subsection (2) ends:

- (a) if the employee is no longer providing care or support to the child;
- (b) 52 weeks from the date the medical certificate is issued;
- (c) on the termination of the 37-week period mentioned in subsection (2); or
- (d) on the death of the employee’s child.

2013, c.S-15.1, s.2-57.

Crime-related child death or disappearance leave

2-58(1) In this section:

- (a) “**child**” means a person who is under 18 years of age;
- (b) “**crime**” means an offence pursuant to the *Criminal Code*, other than an offence prescribed by the regulations made pursuant to paragraph 209.4(f) of the *Canada Labour Code*.

(2) An employee is entitled to crime-related child death or disappearance leave of up to 104 weeks if a child of the employee dies and it is probable, considering the circumstances, that the child died as a result of a crime.

(3) An employee is entitled to a leave pursuant to this section of up to 52 weeks if a child of the employee disappears and it is probable, considering the circumstances, that the child’s disappearance is a result of a crime.

(4) An employee is not entitled to a leave pursuant to this section if the employee is charged with the crime or if it is probable, considering the circumstances, that the child was a party to the crime.

(5) If an employee takes a leave pursuant to this section and the circumstances that made it probable that the child died or disappeared as a result of a crime change and it no longer seems probable that the child died or disappeared as a result of a crime, the employee’s entitlement to the leave ends on the day on which it no longer seems probable.

(6) If an employee takes a leave pursuant to this section and the employee is subsequently charged with the crime, the employee’s entitlement to the leave ends on the day on which the employee is charged.