



COVID-19 and Recent Legislation on Leaves of Absence

Revised as of April 20, 2020

COVID-19 presents a huge challenge to workers, their families and their communities. Several provinces have recently made important amendments to employment standards legislation to assist employees in doing what they need to do to help “flatten the curve.” This information is up to date as of April 15, 2020

In **British Columbia**, employers are not allowed to ask employees to provide a medical note when requesting a leave relating to COVID-19. Employers are allowed to ask an employee for reasonable proof that they fall into one of the five categories set out below. Employees are entitled to an unpaid leave of absence related to COVID-19 (retroactive to January 27, 2020) if:

1. They have been diagnosed with COVID-19 **and** are acting in accordance with a) an order from a medical health officer or b) advice from a medical practitioner, nurse or nurse practitioner;
2. They are in quarantine or self-isolation in accordance with a) an order of the provincial health officer or the federal *Quarantine Act* or b) guidelines from BC’s Centre for Disease Control or the Public Health Agency of Canada;
3. They are directed by their employer not to work due to the employer’s concern about the employee’s exposure to others;
4. They are taking care of an eligible person, including kids who are home due to school and daycare closures and dependent adult children; or
5. They are outside of B.C. and unable to travel back to the province due to travel and border restrictions.

On March 13, 2020, **Alberta** announced that it would provide employees with a 14-day paid leave and posted information regarding this leave on the province’s website. However, a few days later, the province passed legislation creating an unpaid leave, as set out below.

In **Alberta**, employees are entitled to a 14-day unpaid leave of absence if they cannot attend work due to COVID-19. There is no requirement that employees work 90 days before becoming eligible, nor do employees need to provide a doctor’s note to access the leave. In particular, employees will be granted this leave if:

1. They need to self-isolate.
2. They need to care for a child or dependent adult who is required to self-isolate.

Additionally, on April 6, 2020 (retroactive to March 17, 2020), **Alberta** implemented an order stating that employees are entitled to take a leave for the period of time

recommended or directed by the medical officer of health if they need to care for a child or children who are impacted by school and daycare closures.

In **Saskatchewan**, employees are entitled to a job-protected unpaid leave (retroactive to March 6, 2020) if they have to self-isolate due to the direction of their employer, a medical practitioner, the provincial government or the chief medical officer of health. They are also entitled to leave to provide care for a child. Employees are exempt from the usual 13-week requirement to qualify for the leave and do not have to provide a medical note.

In **Manitoba**, a new unpaid job-protected Public Health Emergency Leave has been created for employees impacted by COVID-19 (retroactive to March 1, 2020). Employees do not have to provide a medical note to access this leave, and there is no minimum period of employment required before an employee can take the leave. Employees can take the leave for as long as one of the situations set out below applies to them.

An employee is entitled to the leave if:

1. The employee is in quarantine, isolation or self-isolation in order to follow guidance or directives issued by specific public health authorities regarding COVID-19;
2. The employee is under medical examination, supervision or treatment for COVID-19;
3. The employee is ordered to do something under *The Emergency Measures Act* or *The Public Health Act* as a result of COVID-19;
4. The employee is providing care, support or assistance to a family member as a result of COVID-19, including school and daycare closures and other circumstances;
5. The employer directs the employee not to work because the employer is concerned about the employee's exposure to others; or
6. The employee is directly affected by travel restrictions and cannot reasonably be expected to travel to their workplace.

In **Ontario**, employers are not allowed to ask employees to provide a medical note when requesting a leave relating to COVID-19. Employers are allowed to seek information at a reasonable time. Employees are entitled to an unpaid leave of absence (retroactive to January 25, 2020) that can last up to the end of the pandemic if:

1. The employee is under investigation, supervision or treatment for COVID-19;
2. The employee cannot attend work due to an order from the Medical Officer of Health or the Ontario Court of Justice directing them to not do something (in this case, attend work), in order to lessen the spread of COVID-19;
3. The employee is in self-isolation or quarantine as directed by a public health official, Telehealth Ontario, a doctor or nurse, a municipality, or the provincial or federal government;

4. The employer tells an employee to stay home because the employer is concerned that the employee may expose others to COVID-19;
5. The employee is assisting a family member who is ill or who requires care or assistance due to a school closure or other matter relating to COVID-19. The definition of family member is very broad and includes spouses, parents, grandparents, nephews, nieces, children, step-children, spouses of grandchildren, and others, including whomever an employee treats like a family member; or
6. The employee is outside of Ontario and cannot travel back due to restrictions at the border.

Note that the Ontario government instituted an order on April 2, 2020, excluding employees of retirement homes from the COVID-19 leave provisions set out above.

In **New Brunswick**, no pandemic leave has been implemented. However, the government has announced plans to enact a 15-week job protected leave that would apply where employees must self-isolate or quarantine, become ill or are required to care for family members.

In **Nova Scotia**, no new measures are in place. The province instituted emergency leave during the H1N1 emergency in 2009 and this leave remains in place. Regarding COVID-19, Nova Scotia declared a state of emergency on March 22, 2020 and employees are entitled to take an emergency leave as of that date. Employees can remain on leave for as long as the employee cannot perform the duties of the employee's position because of the emergency. Note that in addition to being ill or under self-isolation or quarantine, an employee is entitled to take leave to provide care for a family member who is ill or requires care. The definition of family member is very broad, and includes spouses, parents, grandparents, nephews, nieces, children, step-children, spouses of grandchildren, and others, including people the employee considers to be like a close relative.

In **Newfoundland and Labrador**, employers are not allowed to ask an employee for a medical note if the employee has requested a leave related to COVID-19. Employees are entitled to an unpaid leave of absence (retroactive to March 14, 2020) that can last up to the end of the pandemic if:

1. The employee is under medical investigation, supervision or treatment for COVID-19;
2. The employee cannot attend work due to an order made under the *Public Health Protection and Promotion Act* relating to COVID-19;
3. The employee is in self-isolation, quarantine or under another control measure as directed by the Chief Medical Officer of Health or the government of the province;
4. The employer tells an employee to stay home because the employer is concerned that the employee may expose others to COVID-19;

5. The employee is assisting a family member who is ill or who requires care or assistance due to a school closure or other matter relating to COVID-19. The definition of family member is very broad and includes spouses, parents, grandparents, nephews, nieces, children, step-children, spouses of grandchildren, and others, including people the employee considers to be like a close relative; or
6. The employee is outside of Newfoundland and Labrador and cannot travel back due to restrictions at the border.

Federally regulated employees are entitled to take unpaid leave for up to 16 weeks if they are unable or unavailable to work due to issues relating to COVID-19.

Please see the USW's resources at www.usw.ca/covid19 for information on accessing income supports for workers impacted by COVID-19.