

New year, new laws: Summary of recent changes to the Northwest Territories Employment Standards Act ^[1]

Author: Cushing, Deborah & Sully, Cory

Source: Mondaq

Format: Article

Publication Date: 6 Jan 2020

AVAILABILITY

Access online ^[2]

EXCERPTS

On January 1, 2020, changes to the Northwest Territories *Employment Standards Act* (the "Act") and the *Employment Standards Regulation* (the "Regulation") came into force. The substantive changes include new job-protected leaves of absence, additional restrictions on youth employment, and new protections for domestic workers. These amendments follow similar changes to employment standards legislation in other Canadian provinces over the past year.

The following is a summary of the changes:

Amended and New Leaves of Absence

- Parental Leave
- Eligible employees are entitled to 61 weeks of unpaid parental leave, up from 37 weeks.
- Parental leave can be shared, but the total amount of parental leave taken by more than one employee with respect to the same birth or adoption cannot exceed 69 weeks.

Compassionate Care Leave

- Eligible employees are entitled to 27 weeks (previously eight weeks) of unpaid compassionate care leave within a 52-week period, to provide care or support to a family member. Employees are to take the leave in minimum periods of one week's duration.
- New definitions of "care" and "support" apply to both compassionate care leave and the new family violence leave.
 - "Care" means "all care that is required because of the state of health of a family member, other than the care provided by a health care professional".
 - "Support" means "all psychological or emotional support that is required because of the state of health of a family member".

Family Caregiver Leave

- Family caregiver leave is a new unpaid leave of absence to allow employees to provide care or support for a critically ill family member. Critically ill means that the family member's baseline state of health has significantly changed and their life is at risk as a result of an illness or injury. Such leave is in addition to compassionate care leave.
- Eligible employees can take up to 37 weeks to care for a critically ill child (under 18 years of age) and up to 17 weeks to care for a critically ill adult, within a 52-week period. Employees are to take the leave in minimum periods of one week's duration.
- To be eligible for this leave, the employee must have been employed for at least six consecutive months before taking the leave of absence.
- An employee who wants to take family caregiver leave must submit a request to their employer with the expected duration of the leave, and if the employer requires one, a supporting medical certificate.

Family Violence Leave

- Family violence leave is another new leave of absence. An employee is eligible for this leave if the employee or the employee's child experiences family violence. "Family violence" is defined as under the Protections Against Family Violence Act and means any of the following:
 - an intentional or reckless act or omission that causes bodily harm or damage to property;
 - an intentional, reckless or threatened act or omission that: (i) causes the employee to fear for his or her safety; (ii) causes the employee to fear for the safety of their child; or (iii) causes their child to fear for his or her safety;
 - sexual abuse;
 - forcible confinement; or
 - psychological abuse, emotional abuse or financial abuse that causes harm or the fear of harm to the employee or any child of the employee.
- In each calendar year, eligible employees are entitled to up to 10 days of family violence leave, the first five days of which are paid and the other five days of which are unpaid. If the employee takes any part of a day as leave, then the employer may deem that the employee has taken one full day of leave.
- Eligible employees are also entitled to up to 15 weeks of unpaid family violence leave in each calendar year. Employees are to take this leave in minimum periods of one week's duration.
- To be eligible for family violence leave, the employee must have been employed for at least three consecutive months for paid leave, and at least one consecutive month for unpaid leave.
- This leave may be taken for any of the following specified purposes:
 - to seek medical attention in respect of a physical or psychological injury caused by the family violence;
 - to obtain services from a victim services organization;
 - to obtain psychological or other professional counselling;
 - to relocate temporarily or permanently; or
 - to seek legal or law enforcement assistance, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the family violence.
- An employee who commits family violence is not eligible to take this leave.
- As with the other protected leaves, employers may request documentation in support of this leave of absence. The amended Act says that an employee shall provide their employer with "reasonable verification of the necessity of the leave" that meets the requirements, if any, specified by the Regulation. At this stage, the Regulation does not specify any requirements for the form of this verification. Given the nature of this leave of absence, employers should be sensitive and reasonable with their requests for supporting documentation.
- The amended Act requires employers to take steps to protect the confidentiality of any records that relate to family violence leave. As such, employers should take care to safeguard any records they receive which relate to the leave (including correspondence from employees and supporting documentation) and consider implementing administrative controls to ensure that only individuals who "need to know" can access the records.

Additional Restrictions on Youth Employment

- Persons 16 years old or younger are now not permitted to work in several additional occupations. These occupations include working:
 - on a construction site;
 - in a production process at a pulp mill, saw mill or woodworking establishment;
 - in a production process at a smelter, foundry, refinery or metal processing or fabricating operation;
 - in a confined space;
 - in a forestry or logging operation;
 - as an operator of powered mobile equipment, a crane or a hoist;
 - where exposure to a chemical or biological substance is likely to endanger the health or safety of the youth;
 - in power line construction or maintenance; or
 - as a domestic worker.

New Protections for Domestic Workers

The new protections for domestic workers are a significant change as such workers were previously entirely exempt from the Act. Employers of domestic workers are now required to provide domestic workers with employment contracts which contain, at a minimum, the following:

- the duties the domestic worker is to perform;
- the days and hours of work that the domestic worker is to work in a week;
- the wage rate and when wages are to be paid; and
- if the domestic worker is to reside at the employer's private residence, the amount agreed upon for monthly room and board.

Employers who have questions about how the changes to the Act and Regulation apply to their workplace may contact members of our Labour, Employment and Human Rights Group in our Yellowknife or Vancouver offices.

Related link:

Region: Northwest Territories ^[3]

Tags: maternity and parental leave ^[4]

Source URL (modified on 27 Jan 2022): <https://childcarecanada.org/documents/child-care-news/20/01/new-year-new-laws-summary-recent-changes-northwest-territories>
 Links

[1] <https://childcarecanada.org/documents/child-care-news/20/01/new-year-new-laws-summary-recent-changes-northwest-territories> ^[2]

<http://www.mondaq.com/canada/x/880588/employee+rights+labour+relations/New+Year+New+Laws+Summary+Of+Recent+Changes+To+The+Northwest+Territories+Employment+Standards+Act>

[3] <https://childcarecanada.org/taxonomy/term/7861> [4] <https://childcarecanada.org/category/tags/maternity-and-parental-leave>