

PART XIV LEAVES OF ABSENCE

1. Definitions

45. In this Part,

"parent" includes a person with whom a child is placed for adoption and a person who is in a relationship of some permanence with a parent of a child and who intends to treat the child as his or her own, and "child" has a corresponding meaning; ("père ou mère")

"spouse" means,

(a) a spouse as defined in section 1 of the *Family Law Act*, or

(b) either of two persons who live together in a conjugal relationship outside marriage. ("conjoint") 2000, c. 41, s. 45; 2001, c. 9, Sched. I, s. 1 (9); 2004, c. 15, s. 2; 2005, c. 5, s. 23.

Pregnancy Leave

Pregnancy leave

46. (1) A pregnant employee is entitled to a leave of absence without pay unless her due date falls fewer than 13 weeks after she commenced employment. 2000, c. 41, s. 46 (1).

When leave may begin

(2) An employee may begin her pregnancy leave no earlier than the earlier of,

(a) the day that is 17 weeks before her due date; and

(b) the day on which she gives birth. 2000, c. 41, s. 46 (2).

Exception

(3) Clause (2) (b) does not apply with respect to a pregnancy that ends with a still-birth or miscarriage. 2000, c. 41, s. 46 (3).

Latest day for beginning pregnancy leave

(3.1) An employee may begin her pregnancy leave no later than the earlier of,

(a) her due date; and

(b) the day on which she gives birth. 2001, c. 9, Sched. I, s. 1 (10).

Notice

(4) An employee wishing to take pregnancy leave shall give the employer,

(a) written notice at least two weeks before the day the leave is to begin; and

(b) if the employer requests it, a certificate from a legally qualified medical practitioner stating the due date. 2000, c. 41, s. 46 (4).

Notice to change date

(5) An employee who has given notice to begin pregnancy leave may begin the leave,

(a) on an earlier day than was set out in the notice, if the employee gives the employer a new written notice at least two weeks before that earlier day; or

(b) on a later day than was set out in the notice, if the employee gives the employer a new written notice at least two weeks before the day set out in the original notice. 2000, c. 41, s. 46 (5).

Same, complication, etc.

(6) If an employee stops working because of a complication caused by her pregnancy or because of a birth, still-birth or miscarriage that occurs earlier than the due date, subsection (4) does not apply and the employee shall, within two weeks after stopping work, give the employer,

(a) written notice of the day the pregnancy leave began or is to begin; and

(b) if the employer requests it, a certificate from a legally qualified medical practitioner stating,

(i) in the case of an employee who stops working because of a complication caused by her pregnancy, that she is unable to perform the duties of her position because of the complication and stating her due date,

(ii) in any other case, the due date and the actual date of the birth, still-birth or miscarriage. 2000, c. 41, s. 46 (6).

End of pregnancy leave

47. (1) An employee's pregnancy leave ends,

(a) if she is entitled to parental leave, 17 weeks after the pregnancy leave began;

(b) if she is not entitled to parental leave, on the day that is the later of,

(i) 17 weeks after the pregnancy leave began, and

(ii) six weeks after the birth, still-birth or miscarriage. 2000, c. 41, s. 47 (1).

Ending leave early

(2) An employee may end her leave earlier than the day set out in subsection (1) by giving her employer written notice at least four weeks before the day she wishes to end her leave. 2000, c. 41, s. 47 (2).

Changing end date

(3) An employee who has given notice under subsection (2) to end her pregnancy leave may end

the leave,

(a) on an earlier day than was set out in the notice, if the employee gives the employer a new written notice at least four weeks before the earlier day; or

(b) on a later day than was set out in the notice, if the employee gives the employer a new written notice at least four weeks before the day indicated in the original notice. 2000, c. 41, s. 47 (3).

Employee not returning

(4) An employee who takes pregnancy leave shall not terminate her employment before the leave expires or when it expires without giving the employer at least four weeks' written notice of the termination. 2000, c. 41, s. 47 (4).

Exception

(5) Subsection (4) does not apply if the employer constructively dismisses the employee. 2000, c. 41, s. 47 (5).

Parental Leave

Parental leave

48. (1) An employee who has been employed by his or her employer for at least 13 weeks and who is the parent of a child is entitled to a leave of absence without pay following the birth of the child or the coming of the child into the employee's custody, care and control for the first time. 2000, c. 41, s. 48 (1).

When leave may begin

(2) An employee may begin parental leave no later than 52 weeks after the day the child is born or comes into the employee's custody, care and control for the first time. 2000, c. 41, s. 48 (2).

Restriction if pregnancy leave taken

(3) An employee who has taken pregnancy leave must begin her parental leave when her pregnancy leave ends unless the child has not yet come into her custody, care and control for the first time. 2000, c. 41, s. 48 (3).

Notice

(4) Subject to subsection (6), an employee wishing to take parental leave shall give the employer written notice at least two weeks before the day the leave is to begin. 2000, c. 41, s. 48 (4).

Notice to change date

(5) An employee who has given notice to begin parental leave may begin the leave,

(a) on an earlier day than was set out in the notice, if the employee gives the employer a new written notice at least two weeks before that earlier day; or

(b) on a later day than was set out in the notice, if the employee gives the employer a new written notice at least two weeks before the day set out in the original notice. 2000, c. 41, s. 48 (5).

If child earlier than expected

(6) If an employee stops working because a child comes into the employee's custody, care and control for the first time earlier than expected,

(a) the employee's parental leave begins on the day he or she stops working; and

(b) the employee must give the employer written notice that he or she is taking parental leave within two weeks after stopping work. 2000, c. 41, s. 48 (6).

End of parental leave

49. (1) An employee's parental leave ends 35 weeks after it began, if the employee also took pregnancy leave and 37 weeks after it began, otherwise. 2000, c. 41, s. 49 (1).

Ending leave early

(2) An employee may end his or her parental leave earlier than the day set out in subsection (1) by giving the employer written notice at least four weeks before the day he or she wishes to end the leave. 2000, c. 41, s. 49 (2).

Changing end date

(3) An employee who has given notice to end his or her parental leave may end the leave,

(a) on an earlier day than was set out in the notice, if the employee gives the employer a new written notice at least four weeks before the earlier day; or

(b) on a later day than was set out in the notice, if the employee gives the employer a new written notice at least four weeks before the day indicated in the original notice. 2000, c. 41, s. 49 (3).

Employee not returning

(4) An employee who takes parental leave shall not terminate his or her employment before the leave expires or when it expires without giving the employer at least four weeks' written notice of the termination. 2000, c. 41, s. 49 (4).

Exception

(5) Subsection (4) does not apply if the employer constructively dismisses the employee. 2000, c. 41, s. 49 (5).

Family Medical Leave

Family medical leave

49.1 (1) In this section,

"qualified health practitioner" means a person who is qualified to practise medicine under the laws of the jurisdiction in which care or treatment is provided to the individual described in subsection (3) or, in the prescribed circumstances, a member of a prescribed class of health practitioners; ("praticien de la santé qualifié")

"week" means a period of seven consecutive days beginning on Sunday and ending on Saturday. ("semaine") 2004, c. 15, s. 3.

Entitlement to leave

(2) An employee is entitled to a leave of absence without pay of up to eight weeks to provide care or support to an individual described in subsection (3) if a qualified health practitioner issues a certificate stating that the individual has a serious medical condition with a significant risk of death occurring within a period of 26 weeks or such shorter period as may be prescribed. 2004, c. 15, s. 3.

Application of subs. (2)

(3) Subsection (2) applies in respect of the following individuals:

1. The employee's spouse.
2. A parent, step-parent or foster parent of the employee.
3. A child, step-child or foster child of the employee or the employee's spouse.
4. Any individual prescribed as a family member for the purpose of this section. 2004, c. 15, s. 3.

Earliest date leave can begin

(4) The employee may begin a leave under this section no earlier than the first day of the week in which the period referred to in subsection (2) begins. 2004, c. 15, s. 3.

Latest date employee can remain on leave

(5) The employee may not remain on a leave under this section after the earlier of the following dates:

1. The last day of the week in which the individual described in subsection (3) dies.
2. The last day of the week in which the period referred to in subsection (2) ends. 2004, c. 15, s. 3.

Two or more employees

(6) If two or more employees take leaves under this section in respect of a particular individual, the total of the leaves taken by all the employees shall not exceed eight weeks during the period referred to in subsection (2) that applies to the first certificate issued for the purpose of this section. 2004, c. 15, s. 3.

Full-week periods

(7) An employee may take a leave under this section only in periods of entire weeks. 2004, c. 15, s. 3.

Advising employer

(8) An employee who wishes to take leave under this section shall advise his or her employer in writing that he or she will be doing so. 2004, c. 15, s. 3.

Same

(9) If the employee must begin the leave before advising the employer, the employee shall advise the employer of the leave in writing as soon as possible after beginning it. 2004, c. 15, s. 3.

Copy of certificate

(10) If requested by the employer, the employee shall provide the employer with a copy of the certificate referred to in subsection (2) as soon as possible. 2004, c. 15, s. 3.

Further leave

(11) If an employee takes a leave under this section and the individual referred to in subsection (3) does not die within the period referred to in subsection (2), the employee may, in accordance with this section, take another leave and, for that purpose, the reference in subsection (6) to "the first certificate" shall be deemed to be a reference to the first certificate issued after the end of that period. 2004, c. 15, s. 3.

Leave under s. 50

(12) An employee's entitlement to leave under this section is in addition to any entitlement to leave under section 50. 2004, c. 15, s. 3.

Organ Donor Leave

Organ donor leave

Definitions

49.2 (1) In this section,

"legally qualified medical practitioner" means,

(a) in the case of surgery for the purpose of organ donation that takes place in Ontario, a member of the College of Physicians and Surgeons of Ontario, and

(b) in the case of surgery for the purpose of organ donation that takes place outside Ontario, a person who is qualified to practise medicine under the laws of that jurisdiction; ("médecin dûment qualifié")

"organ" means kidney, liver, lung, pancreas, small bowel or any other organ that is prescribed for the purpose of this section; ("organe")

"organ donation" means the donation of all or part of an organ to a person; ("don d'organe")

"prescribed" means prescribed by a regulation made under this section. ("prescrit") 2009, c. 16, s. 2.

Application to prescribed tissue

(2) References to organs in this section also apply to tissue that is prescribed for the purpose of this section. 2009, c. 16, s. 2.

Entitlement to leave

(3) An employee who has been employed by his or her employer for at least 13 weeks and undergoes surgery for the purpose of organ donation is entitled to a leave of absence without pay. 2009, c. 16, s. 2.

Certificate

(4) The employer may require an employee who takes leave under this section to provide a certificate issued by a legally qualified medical practitioner confirming that the employee has undergone or will undergo surgery for the purpose of organ donation. 2009, c. 16, s. 2.

Length of leave

(5) The employee is entitled to take leave for the prescribed period or, if no period is prescribed, for up to 13 weeks. 2009, c. 16, s. 2.

Extended leave

(6) When the leave described in subsection (5) ends, if a legally qualified medical practitioner issues a certificate stating that the employee is not yet able to perform the duties of his or her position because of the organ donation and will not be able to do so for a specified time, the employee is entitled to extend the leave for the specified time, subject to subsection (7). 2009, c. 16, s. 2.

Same

(7) The leave may be extended more than once, but the total extension period shall not exceed 13 weeks. 2009, c. 16, s. 2.

When leave begins

(8) The employee may begin a leave described in subsection (5) on the day that he or she undergoes surgery for the purpose of organ donation, or on the earlier day specified in a certificate issued by a legally qualified medical practitioner. 2009, c. 16, s. 2.

When leave ends

(9) Subject to subsections (10) and (11), a leave under this section ends when the prescribed period has expired or, if no period is prescribed, 13 weeks after the leave began. 2009, c. 16, s. 2.

Same

(10) If the employee extends the leave in accordance with subsection (6), the leave ends on the earlier of,

(a) the day specified in the most recent certificate under subsection (6); or

(b) the day that is,

(i) if no period is prescribed for the purposes of subsection (5), 26 weeks after the leave began, or

(ii) if a period is prescribed for the purposes of subsection (5), 13 weeks after the end of the prescribed period. 2009, c. 16, s. 2.

Ending leave early

(11) The employee may end the leave earlier than provided in subsection (9) or (10) by giving the employer written notice at least two weeks before the day the employee wishes to end the leave. 2009, c. 16, s. 2.

Advising employer

(12) An employee who wishes to take leave under this section or to extend a leave under this section shall give the employer written notice, at least two weeks before beginning or extending the leave, if possible. 2009, c. 16, s. 2.

Same

(13) If the employee must begin or extend the leave before advising the employer, the employee shall advise the employer of the matter in writing as soon as possible after beginning or extending the leave. 2009, c. 16, s. 2.

Duty to provide certificate

(14) When the employer requires a certificate under subsection (4), (6) or (8), the employee shall provide it as soon as possible. 2009, c. 16, s. 2.

Leave under s. 50

(15) An employee's entitlement to leave under this section is in addition to any entitlement to leave under section 50. 2009, c. 16, s. 2.

Personal Emergency Leave

Personal emergency leave

50. (1) An employee whose employer regularly employs 50 or more employees is entitled to a

leave of absence without pay because of any of the following:

1. A personal illness, injury or medical emergency.
2. The death, illness, injury or medical emergency of an individual described in subsection (2).
3. An urgent matter that concerns an individual described in subsection (2). 2000, c. 41, s. 50 (1).

Same

(2) Paragraphs 2 and 3 of subsection (1) apply with respect to the following individuals:

1. The employee's spouse.
2. A parent, step-parent or foster parent of the employee or the employee's spouse.
3. A child, step-child or foster child of the employee or the employee's spouse.
4. A grandparent, step-grandparent, grandchild or step-grandchild of the employee or of the employee's spouse.
5. The spouse of a child of the employee.
6. The employee's brother or sister.
7. A relative of the employee who is dependent on the employee for care or assistance. 2000, c. 41, s. 50 (2); 2004, c. 15, s. 4.

Advising employer

(3) An employee who wishes to take leave under this section shall advise his or her employer that he or she will be doing so. 2000, c. 41, s. 50 (3).

Same

(4) If the employee must begin the leave before advising the employer, the employee shall advise the employer of the leave as soon as possible after beginning it. 2000, c. 41, s. 50 (4).

Limit

(5) An employee is entitled to take a total of 10 days' leave under this section in each calendar year. 2000, c. 41, s. 50 (5); 2004, c. 21, s. 8.

Leave deemed to be taken in entire days

(6) If an employee takes any part of a day as leave under this section, the employer may deem the employee to have taken one day's leave on that day for the purposes of subsection (5). 2000, c. 41, s. 50 (6).

Evidence

(7) An employer may require an employee who takes leave under this section to provide evidence

reasonable in the circumstances that the employee is entitled to the leave. 2000, c. 41, s. 50 (7).

Emergency Leave, Declared Emergencies

Emergency leave, declared emergencies

50.1 (1) An employee is entitled to a leave of absence without pay if the employee will not be performing the duties of his or her position because of an emergency declared under section 7.0.1 of the *Emergency Management and Civil Protection Act* and,

(a) because of an order that applies to him or her made under section 7.0.2 of the *Emergency Management and Civil Protection Act*;

(b) because of an order that applies to him or her made under the *Health Protection and Promotion Act*;

(c) because he or she is needed to provide care or assistance to an individual referred to in subsection (8); or

(d) because of such other reasons as may be prescribed. 2006, c. 13, s. 3 (3).

Advising employer

(2) An employee who takes leave under this section shall advise his or her employer that he or she will be doing so. 2006, c. 13, s. 3 (3).

Same

(3) If the employee begins the leave before advising the employer, the employee shall advise the employer of the leave as soon as possible after beginning it. 2006, c. 13, s. 3 (3).

Evidence of entitlement

(4) An employer may require an employee who takes leave under this section to provide evidence reasonable in the circumstances at a time that is reasonable in the circumstances that the employee is entitled to the leave. 2006, c. 13, s. 3 (3).

Limit

(5) An employee is entitled to take a leave under this section for as long as he or she is not performing the duties of his or her position because of an emergency declared under section 7.0.1 of the *Emergency Management and Civil Protection Act* and a reason referred to in clause (1) (a), (b), (c) or (d), but, subject to subsection (6), the entitlement ends on the day the emergency is terminated or disallowed. 2006, c. 13, s. 3 (3).

Same

(6) If an employee took leave because he or she was not performing the duties of his or her position because of an emergency that has been terminated or disallowed and because of an order made under subsection 7.0.2 (4) of the *Emergency Management and Civil Protection Act* and the

order is extended under subsection 7.0.8 (4) of that Act, the employee's entitlement to leave continues during the period of the extension if he or she is not performing the duties of his or her position because of the order. 2006, c. 13, s. 3 (3).

Additional to entitlement under s. 50

(7) The entitlement to leave under this section is in addition to the entitlement to leave under section 50. 2006, c. 13, s. 3 (3).

Care or assistance, specified individuals

(8) Clause (1) (c) applies with respect to the following individuals:

1. The employee's spouse.
2. A parent, step-parent or foster parent of the employee or the employee's spouse.
3. A child, step-child or foster child of the employee or the employee's spouse.
4. A grandparent, step-grandparent, grandchild or step-grandchild of the employee or of the employee's spouse.
5. The spouse of a child of the employee.
6. The employee's brother or sister.
7. A relative of the employee who is dependent on the employee for care or assistance. 2006, c. 13, s. 3 (3).

Definitions

(9) The definitions of "parent" and "spouse" in section 45 apply for the purpose of subsection (8). 2006, c. 13, s. 3 (3).

Retroactive order

(10) If an order made under section 7.0.2 of the *Emergency Management and Civil Protection Act* is made retroactive pursuant to subsection 7.2 (1) of that Act,

(a) an employee who does not perform the duties of his or her position because of the declared emergency and the order is deemed to have been on leave beginning on the first day the employee did not perform the duties of his or her position on or after the date to which the order was made retroactive; and

(b) clause 74 (1) (a) applies with necessary modifications in relation to the deemed leave described in clause (a). 2006, c. 13, s. 3 (3).

Reservist Leave

Reservist leave

50.2 (1) An employee is entitled to a leave of absence without pay if the employee is a reservist and will not be performing the duties of his or her position because,

- (a) the employee is deployed to a Canadian Forces operation outside Canada;
- (b) the employee is deployed to a Canadian Forces operation inside Canada that is or will be providing assistance in dealing with an emergency or with its aftermath; or
- (c) the prescribed circumstances apply. 2007, c. 16, Sched. A, s. 3.

Activities included in deployment outside Canada

(2) Participation, whether inside or outside Canada, in pre-deployment or post-deployment activities that are required by the Canadian Forces in connection with an operation described in clause (1) (a) is considered deployment to the operation for the purposes of that clause. 2007, c. 16, Sched. A, s. 3.

Restriction

(3) An employee is not entitled to begin a leave under this section unless he or she has been employed by the employer for at least the prescribed period or, if no period is prescribed, for at least six consecutive months. 2007, c. 16, Sched. A, s. 3.

Length of leave

(4) An employee is entitled to take leave under this section for the prescribed period or, if no period is prescribed, for as long as clause (1) (a) or (b) or the circumstances set out in a regulation made under clause (1) (c) apply to him or her. 2007, c. 16, Sched. A, s. 3.

Advising employer re start of leave

(5) An employee who intends to take a leave under this section shall give his or her employer the prescribed period of notice of the day on which he or she will begin the leave or, if no notice period is prescribed, reasonable notice. 2007, c. 16, Sched. A, s. 3.

Same

(6) Despite subsection (5), if the employee must begin the leave before advising the employer, the employee shall advise the employer of the leave as soon as possible after beginning it. 2007, c. 16, Sched. A, s. 3.

Evidence of entitlement

(7) An employer may require an employee who takes a leave under this section to provide evidence that the employee is entitled to the leave. 2007, c. 16, Sched. A, s. 3.

Same

(8) When evidence is required under subsection (7), the employee shall,

(a) provide the prescribed evidence, or evidence reasonable in the circumstances if no evidence is prescribed; and

(b) provide the evidence at the prescribed time, or at a time reasonable in the circumstances if no time is prescribed. 2007, c. 16, Sched. A, s. 3.

Advising employer re end of leave

(9) An employee who intends to end a leave taken under this section shall give his or her employer the prescribed period of notice of the day on which he or she intends to end the leave or, if no notice period is prescribed, reasonable notice. 2007, c. 16, Sched. A, s. 3.

Written notice

(10) Notice under subsection (5), (6) or (9) shall be given in writing. 2007, c. 16, Sched. A, s. 3.

Definition, emergency

(11) In clause (1) (b),

"emergency" means,

(a) a situation or an impending situation that constitutes a danger of major proportions that could result in serious harm to persons or substantial damage to property and that is caused by the forces of nature, a disease or other health risk, an accident or an act whether intentional or otherwise, or

(b) a situation in which a search and rescue operation takes place. 2007, c. 16, Sched. A, s. 3.

Transition

(12) This section applies only if,

(a) the deployment described in subsection (1) begins on or after the day the *Fairness for Military Families Act (Employment Standards and Health Insurance)*, 2007 receives Royal Assent; and

(b) notice under subsection (5) or (6) is given on or after the day described in clause (a). 2007, c. 16, Sched. A, s. 3.

General Provisions Concerning Leaves

Rights during leave

51. (1) During any leave under this Part, an employee continues to participate in each type of benefit plan described in subsection (2) that is related to his or her employment unless he or she elects in writing not to do so. 2000, c. 41, s. 51 (1).

Benefit plans

(2) Subsection (1) applies with respect to pension plans, life insurance plans, accidental death

plans, extended health plans, dental plans and any prescribed type of benefit plan. 2000, c. 41, s. 51 (2).

Employer contributions

(3) During an employee's leave under this Part, the employer shall continue to make the employer's contributions for any plan described in subsection (2) unless the employee gives the employer a written notice that the employee does not intend to pay the employee's contributions, if any. 2000, c. 41, s. 51 (3).

Reservist leave

(4) Subsections (1), (2) and (3) do not apply in respect of an employee during a leave under section 50.2, unless otherwise prescribed. 2007, c. 16, Sched. A, s. 4.

Exception

(5) Despite subsection (4), subsections (1), (2) and (3) apply in respect of an employee during a period of postponement under subsection 53 (1.1), unless otherwise prescribed. 2007, c. 16, Sched. A, s. 4.

Leave and vacation conflict

51.1 (1) An employee who is on leave under this Part may defer taking vacation until the leave expires or, if the employer and employee agree to a later date, until that later date if,

- (a) under the terms of the employee's employment contract, the employee may not defer taking vacation that would otherwise be forfeited or the employee's ability to do so is restricted; and
- (b) as a result, in order to exercise his or her right to leave under this Part, the employee would have to,
 - (i) forfeit vacation or vacation pay, or
 - (ii) take less than his or her full leave entitlement. 2001, c. 9, Sched. I, s. 1 (11).

Leave and completion of vacation conflict

(2) If an employee is on leave under this Part on the day by which his or her vacation must be completed under paragraph 1 of section 35 or paragraph 1 of subsection 35.1 (2), the uncompleted part of the vacation shall be completed immediately after the leave expires or, if the employer and employee agree to a later date, beginning on that later date. 2001, c. 9, Sched. I, s. 1 (11); 2002, c. 18, Sched. J, s. 3 (22).

Alternative right, vacation pay

(3) An employee to whom this section applies may forego vacation and receive vacation pay in accordance with section 41 rather than completing his or her vacation under this section. 2001, c. 9, Sched. I, s. 1 (11).

Length of employment

52. (1) The period of an employee's leave under this Part shall be included in calculating any of the following for the purpose of determining his or her rights under an employment contract:

1. The length of his or her employment, whether or not it is active employment.
2. The length of the employee's service whether or not that service is active.
3. The employee's seniority. 2000, c. 41, s. 52 (1).

Exception

(2) The period of an employee's leave shall not be included in determining whether he or she has completed a probationary period under an employment contract. 2000, c. 41, s. 52 (2).

Reinstatement

53. (1) Upon the conclusion of an employee's leave under this Part, the employer shall reinstate the employee to the position the employee most recently held with the employer, if it still exists, or to a comparable position, if it does not. 2000, c. 41, s. 53 (1).

Reservist leave

(1.1) Despite subsection (1), the employer of an employee who has been on leave under section 50.2 may postpone the employee's reinstatement until,

- (a) a prescribed day; or
- (b) if no day is prescribed, the later of,
 - (i) the day that is two weeks after the day on which the leave ends, and
 - (ii) the first pay day that falls after the day on which the leave ends. 2007, c. 16, Sched. A, s. 5.

Same

(1.2) During the period of postponement, the employee is deemed to continue to be on leave under section 50.2 for the purposes of sections 51.1 and 52. 2007, c. 16, Sched. A, s. 5.

Exception

(2) Subsection (1) does not apply if the employment of the employee is ended solely for reasons unrelated to the leave. 2000, c. 41, s. 53 (2).

Wage rate

(3) The employer shall pay a reinstated employee at a rate that is equal to the greater of,

- (a) the rate that the employee most recently earned with the employer; and

(b) the rate that the employee would be earning had he or she worked throughout the leave. 2000, c. 41, s. 53 (3).