

LEAVES

Leaves from Work
Employees may be eligible for a variety of leaves under the Labour Standards Code. These leaves recognize that events in our personal lives can sometimes interrupt work. On these occasions, some level of accommodation from the employer is necessary and appropriate.

The leaves of absence are pregnancy and parental, end of pregnancy, reservist, critical illness, bereavement, sick, and compassionate leave. In some circumstances, an employee may need further leave, which may be taken if an additional certificate is issued—the total combined leaves must not be more than 16 weeks in the 52-week time frame.

The leave ends when the number of weeks stated in the medical certificate has been taken. If the employee stops providing care to the adult, the leave ends at the end of the week in which the employee stops providing care. An employee can choose to return to work earlier by giving at least 14 days' notice.

Employees who take a critically ill adult leave may qualify for a benefit under the federal government's Employment Insurance program. For more detail on this benefit, contact **Service Canada**.

To take critically ill adult leave
The employee must let the employer know in writing as soon as possible of their intention to take the leave. Where the leave must begin before written notice can be given, the employee must advise the employer of the leave as soon as possible. The employee must also give the employer a plan setting out how the leave will be taken, since the leave can be broken up into more than one period over the 52-week time frame. This leave plan can be changed during the leave with the employer's agreement or by providing the employer with reasonable notice.

The employer can ask in writing for a copy of the medical certificate.

What is the definition of critically ill adult?
Critically ill adult is defined in the federal **Employment Insurance Act** regulations. A critically ill adult is a person 18 or older who has a life-threatening illness or injury.

Who can take critically ill adult leave?
- Immediate and extended family, Contact Labour Standards if you have questions.
- A person like family: A person (related or not) who considers the critically ill adult to be like a close relative, or that the critically ill adult considers like a close relative. If the employer requests, the employee must provide a statement confirming this. Employees wishing to take a Leave for a person in this category must provide their employer, if requested, with a completed copy of the **Family Member Attestation form**, available from Employment and Social Development Canada (ESDC). For those not applying for EI, an alternate statement may be provided; contact Labour Standards to learn more.

What is the difference between critically ill adult leave and compassionate care leave?
A critically ill adult is a person 18 or older who has a life-threatening illness or injury. For compassionate care leave, the family member (of any age) has a serious medical condition with a significant risk of dying within 26 weeks (provided that it is likely to be end-of-life care). For instance, an employee may be able to take critically ill adult leave, and then, should the condition of the family member improve, take compassionate care leave.

Domestic Violence Leave
Domestic violence leave can be taken by an employee who is experiencing domestic violence or whose child (under 18) is experiencing domestic violence. The employee may take up to ten intermittent or consecutive days per calendar year. The employee may take up to 16 consecutive days per calendar year. Up to three days of the leave must be paid by the employer. To qualify for domestic violence leave, the employee must have worked with the employer for at least three months.

Under the Labour Standards Code, domestic violence is defined broadly. It is an act of abuse that can be physical, sexual, emotional, or psychological. It can include coercion, stalking, harassment or financial control. Or, it can be a threat of such violence.

The leave applies to situations of abuse involving the following relationships:

- An employee who is abused by:
 - their current or former intimate partner their child
 - a person under 18 years who lives with them
 - an adult who lives with them and is related to them by blood, marriage, adoption or foster care
- An employee whose child (under 18) who is abused by:
 - the child's current or former intimate partner
 - a person who lives with the child

Domestic violence leave can be used by an employee to seek medical attention for themselves or their child; obtain services for themselves or their child from a victim services organization, psychological or other professional counselling (or certain culturally specific services); relocate temporarily or permanently; or seek legal or law enforcement assistance.

To take Domestic Violence Leave
An employee must advise their employer in writing as soon as possible of their intention to take domestic violence leave, and the anticipated start and end date of the leave. The employer may ask the employee to provide a written statement to the Labour Standards Division to support the employee's entitlement to domestic violence leave. It is an employer's choice whether to require the employee to provide this form to the employer. An employee can obtain the form online or by contacting the Labour Standards Division.

The longer part of domestic violence leave is up to 16 consecutive weeks. To end the longer leave early, the employee must give the employer written notice of at least 14 days before the employee wishes to end the leave, or as much notice as possible.

The shorter part of the leave is ten days, which can be taken at different times or all at once. An employee may end this leave early by giving as much notice as is reasonably possible.

Up to three days of domestic violence leave, per calendar year, must be paid by the employer. For the three paid days, each day must be paid at the employee's regular wage for all hours the employee would have worked that day if the leave had not been taken. The employee can choose which of the days are the three paid days by notifying the employer in writing of this. Otherwise, the employer must treat the first three days taken of the leave as paid days.

Any part of a day taken for domestic violence leave counts as a full day of leave. If an employee works a portion of a day, they must be paid for the time they worked on that day. Also, paid leave for any portion of a work day counts as one of the three paid days that an employee is entitled to under the Labour Standards Code. For example, if an employee takes domestic violence leave for three hours of a 7-hour shift, and works the remainder of the shift, that would count as one of the ten days of leave. Further, if the employee receives pay for the three hours of leave on that day, it will count as one of the three days of paid leave.

The law also requires that employees attempt to schedule appointments during non-working hours, if possible.

Crime-related Child Death or Disappearance Leave
Crime-related death or disappearance leave is an unpaid leave for parents and guardians who are facing the death or disappearance of their child (under 18 years of age) resulting from a probable crime. To qualify for the leave, the employee must have worked with the same employer for at least 3 months. The employee is not entitled to the leave if charged with the crime.

An employee can take up to 10 consecutive weeks of unpaid leave if their child has disappeared and up to 104 consecutive weeks if their child has died.

Where a missing child is found alive during the 52 week leave period, the employee can continue the leave for another 14 days. If the child is found dead, the disappearance leave ends immediately and the employee can start 104 weeks of leave related to the death of the child.

Where the death or disappearance no longer seems to be the result of a crime, the employee can continue the leave for another 14 days and the employee must give the employer notice in writing of their return to work as soon as possible.

The employee can end the leave early by giving the employer 14 days' written notice.

Employees who take a crime-related death or disappearance leave may qualify for income support through a federal government grant. For more information on this grant please contact **Service Canada**.

To Take Crime-related Child Death or Disappearance Leave
The employee must let the employer know in writing as soon as possible of their intention to take the leave. Where the leave must begin before written notice can be given, the employee must advise the employer of the leave as soon as possible.

The employer must also give the employer a written plan outlining the period that they will take the leave, which can be changed during the leave period with the employer's agreement or by giving the employer 4 weeks' written notice.

Emergency Leave
Employees are entitled to an unpaid leave if they are unable to perform their work because of:

- an emergency declared under the Emergency Management Act, or
- a direction or order of a medical officer—or a public health emergency declared—under the Health Protection Act, or
- an emergency declared under the Emergencies Act (Canada)

Employees are also eligible for the leave if they cannot perform their work because they need to care for a family member who is affected by one of the emergency situations noted above and the employee is the only person who can reasonably care for that family member in the circumstances.

Employees are eligible for the leave for as long as the emergency prevents them from being able to perform their work. For example, if an employee can perform their work remotely, the leave does not apply.

Emergency Leave FAQ
Sick Leave
Employees are entitled to receive up to three days of unpaid sick leave each year. This leave may be used to care for an ill parent, child, or family member. It can also be used for medical, dental, or other similar appointments for the employee or the employee's family member.

Medical Certificates for Employee Absence Due to Sickness or Injury
The Patient Care to Care Act includes measures to reduce administrative burdens on health care providers, including more time to see patients. Schedule B of the Act, the Medical Certificate for Employee Absence Act, is administered by the Labour Standards Division. This Act limits the circumstances in which employers can require employees to provide medical notes and broadens the scope of healthcare professionals who can provide them.

If the following is intended to provide general information on the Medical Certificates for Employee Absence Act. For questions about this Act, contact the Labour Standards Division.

Key Features of Medical Certificates for Employee Absence Act (the Act):

- Employers cannot require employees to provide a medical note unless:
 - the employee has missed more than five consecutive working days due to sickness or injury or
 - the employee has already had at least two non-consecutive absences of five or fewer days due to sickness or injury in the preceding 12-month period.

For example, if an employee missed six consecutive days of work (first absence), then two consecutive days (second absence) followed by four consecutive days (third absence) in a 12-month period, the employer could not ask for a medical note for only the first absence. The employer could not ask for a medical note for the second or third absence because they are not more than five consecutive days. If the employee has not had more than two non-consecutive absences of five days or less in the preceding 12-month period.

Employees must accept medical certificates from various qualified health professionals, not just physicians.

- An employee can file a complaint with Labour Standards if they believe their employer has contravened the Act.
- Labour Standards is provided with the same powers to enforce the Act as those it has to enforce the Labour Standards Code.
- Labour Standards decisions in relation to the Medical Certificates for Employee Absence Act can be appealed to the Labour Board.

Bereavement Leave
Employees can take unpaid leave of up to five working days in a row if their spouse, parent, guardian, child or child under their care, grandparent, grandchild, sister, brother, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, or brother-in-law dies.

Employees must give their employers as much notice as possible that they will take this leave.

Citizenship Ceremony Leave
Employees are entitled to take an unpaid leave of absence of up to one day, or less if the employee chooses, to attend their citizenship ceremony.

If possible, employees must give their employer 14 days' notice that they plan to take the leave. If this is not possible, they must give as much notice as is reasonably possible.

If the employer asks, the employee must provide evidence that they are attending their citizenship ceremony on a particular day, for example the "Notice to Appear" sent by Citizenship and Immigration Canada.

Disruption against an Employer
It is against the law to fire, lay off, or discriminate in any way against an employee because they have taken or have said that they intend to take away from the employer believes the employee may take—a leave of absence that the Labour Standards Division will investigate to determine if:

- the employer has good reason to fire or suspend the employee for past behavior and can show that the behaviour has not been allowed in the past (there is a history of discipline); the employer could not act for a medical note; and
- the business has stopped operating or the employee's job is no longer needed; and the employer is unable to provide other reasonable employment; the employer must show that they acted in good faith.

If Labour Standards finds an employee has been discriminated against for having taken a leave or for intending to take a leave, the employer may be ordered to bring the employee back to the job with full back pay going to the date the employee was fired. If the employer does not wish to go back to the job, Labour Standards may order a reasonable alternate remedy.

What if an employee's job is no longer available?
Employees must be given a comparable position with the same pay and benefits. There may be some circumstances where an employee is not available for the job. The employer does not have a comparable job to give the employee. In these situations, employees will need to show that the job is gone and that the leave had no impact on the decision to lay off or terminate the employee's employment. When employees are being let go because a job is being eliminated usually they must be given written notice that the job is ending or pay in lieu of notice.

Spouses, Former Spouses, Surrogacy and Adoption
If a pregnancy ends, the following people are entitled to up to 5 consecutive working days of unpaid leave:

- the spouse of an individual whose pregnancy ended without a live birth
- the former spouse of an individual whose pregnancy ended without a live birth but they would have been the biological parent
- a person who would have become the parent of a child born as a result of the pregnancy through a surrogacy agreement
- a person who would have been the parent of a child born as a result of the pregnancy under an intended adoption pursuant to the laws of Nova Scotia

To Take Leave for End of Pregnancy
An employee must provide their employer with as much notice as possible of their intention to take end of pregnancy leave. The notice should include the anticipated start and end date of the leave. If the employee begins the leave before they can provide their employer with notice, the employer must advise their employer as soon as reasonably possible of the date the leave began and the end date of the leave.

The employer may ask the employee to provide a form developed by the Labour Standards Division to support the employee's entitlement to leave for end of pregnancy. It is an employer's choice whether to require the employee to provide this form to the employer.

Leave for End of Pregnancy Form (Employee whose pregnancy has ended) (PDF)
Leave for End of Pregnancy Form (Spouse, Former Spouse, Surrogacy, Adoption) (PDF)

Employees can also get the form by contacting the Labour Standards Division:
Phone: 902-424-4311
Toll-free (within Nova Scotia): 1-888-315-0110
labourstandards@novascotia.ca

Reservist Leave
The Labour Standards Code includes a leave for employees who serve in the Canadian Forces reserve or reserve their civilian employment for the purpose of service. The leave can be taken for a deployment inside or outside of Canada and associated activities, training required by the Canadian Forces (including military skills training, travel related to deployment and training, and treatment, recovery or rehabilitation with respect to a physical or mental health problem resulting from deployment or training activities. To qualify for this leave, the employee must be employed with their civilian employer for a period of at least three months.

Employees can take up to 24 months of reservist leave within any 36-month period. They can take more leave if the leave is required as a result of a national or international emergency (Canada).

Employees who take reservist leave must return to work no later than four weeks after a deployment related period of service ends. Employees who take reservist leave for a national or international emergency must return to work no later than the next regularly scheduled working day after the training related period of service ends.

To Take Reservist Leave
An employee must give their employer four weeks' written notice of their intention to take reservist leave. The anticipated start and end date of the leave and the anticipated date of return to work. If an employee receives less than four weeks' notice from the Canadian Forces of a requirement to participate in a period of service, they must provide their civilian employer with as much notice as reasonable in the circumstances the notice does not need to be given in writing if it is not possible to do so. There are no changes to the anticipated start and end dates for the leave and the anticipated return to work dates. The employee must inform the employer of these changes as soon as reasonably practicable and in writing if possible.

An employer can require an employee to provide a certificate from an official with the Reserves confirming that the employee is a member of the Reserves who is required for service and specifying the dates for the period of service.

Compassionate Care Leave
Compassionate care leave is an unpaid, 26-week leave for employees who need to care for a seriously ill family member (or a person like family) who has a high risk of dying within 26 weeks.

To qualify for this leave, the employee must be employed with their employer for a period of at least three months before the anticipated start and end date of the leave and the anticipated date of return to work. If an employee receives less than four weeks' notice from the Canadian Forces of a requirement to participate in a period of service, they must provide their civilian employer with as much notice as reasonable in the circumstances the notice does not need to be given in writing if it is not possible to do so. There are no changes to the anticipated start and end dates for the leave and the anticipated return to work dates. The employee must inform the employer of these changes as soon as reasonably practicable and in writing if possible.

An employer can require an employee to provide a certificate from an official with the Reserves confirming that the employee is a member of the Reserves who is required for service and specifying the dates for the period of service.

Who is considered to be a family member of the employee?
- Immediate and extended family, Contact Labour Standards if you have questions.
- A person (related or not) who considers the employee to be like a family member or who is considered by the employee to be like a family member.
Employees wishing to take a Leave for a person in this category must provide their employer, if requested, with a completed copy of the **Family Member Attestation form**, available from Employment and Social Development Canada (ESDC). For those not applying for EI, an alternate statement may be provided; contact Labour Standards to learn more.

Critically ill Child Care Leave
Critically ill child care leave is an unpaid leave that allows an employee to take time off work to provide care and support to a critically ill or injured child (under three years of age or 18 years old) or a family member (or person like family) who is a critically ill child. The leave ends when the child is no longer critically ill. For this leave, the employee must have worked with the employer for at least three months. A qualified medical practitioner must issue a medical certificate stating that the child has a critical illness and the period of time for which the child needs care.

The employee can take up to 37 weeks' leave, which may be taken in at least one week in duration during this time frame. The 52-week time frame begins on the first day of the week in which the child became critically ill.

In some circumstances, an employee may need further leave, which may be taken if an additional certificate is issued—the total combined leaves must not be more than 37 weeks in the 52-week time frame.

The leave ends when the number of weeks stated in the medical certificate has been taken. If the employee stops providing care to the child, the leave ends at the end of the week in which the employee stops providing care. An employee can choose to return to work earlier by giving at least 14 days' notice.

Employees who take a critically ill child care leave may qualify for a benefit under the federal government's Employment Insurance program. For more detail on this benefit, contact **Service Canada**.

To Take Critically Ill Child Care Leave
The employee must let the employer know in writing as soon as possible of their intention to take the leave. Where the leave must begin before written notice can be given, the employee must advise the employer of the leave as soon as possible. The employee must also give the employer a plan setting out how the leave will be taken, since the leave can be broken up into more than one period over the 52-week time frame. This leave plan can be changed during the leave with the employer's agreement or by providing the employer with reasonable notice.

The employer can ask in writing for a copy of the medical certificate.

What is the definition of critically ill child?
Critically ill child is defined in the federal **Employment Insurance Act** regulations. A critically ill child is a person under the age of 18 who has a life-threatening illness or injury.

Who can take critically ill child leave?
- Immediate and extended family, Contact Labour Standards if you have questions.
- A person like family: A person (related or not) who considers the critically ill child to be like a close relative, or that the critically ill child considers like a close relative. If the employer requests, the employee must provide a statement confirming this. Employees wishing to take a Leave for a person in this category must provide their employer, if requested, with a completed copy of the **Family Member Attestation form**, available from Employment and Social Development Canada (ESDC). For those not applying for EI, an alternate statement may be provided; contact Labour Standards to learn more.

Critically ill Adult Care Leave
Critically ill adult care leave is an unpaid leave that allows an employee to take time off work to provide care and support to a critically ill or injured adult (18 years or older) who is a family member (or a person like family). To qualify for this leave, the employee must have worked with the employer for at least three months. A qualified medical practitioner must issue a medical certificate stating that the adult has a critical illness and the period of time for which the adult needs care.

The employee can take up to 37 weeks' leave, which may be taken in at least one week in duration during this time frame. The 52-week time frame begins on the first day of the week in which the adult became critically ill.

In some circumstances, an employee may need further leave, which may be taken if an additional certificate is issued—the total combined leaves must not be more than 37 weeks in the 52-week time frame.

The leave ends when the number of weeks stated in the medical certificate has been taken. If the employee stops providing care to the adult, the leave ends at the end of the week in which the employee stops providing care. An employee can choose to return to work earlier by giving at least 14 days' notice.

Employees who take a critically ill adult care leave may qualify for a benefit under the federal government's Employment Insurance program. For more detail on this benefit, contact **Service Canada**.

To Take Critically Ill Adult Care Leave
The employee must let the employer know in writing as soon as possible of their intention to take the leave. Where the leave must begin before written notice can be given, the employee must advise the employer of the leave as soon as possible. The employee must also give the employer a plan setting out how the leave will be taken, since the leave can be broken up into more than one period over the 52-week time frame. This leave plan can be changed during the leave with the employer's agreement or by providing the employer with reasonable notice.

The employer can ask in writing for a copy of the medical certificate.

What is the definition of critically ill adult?
Critically ill adult is defined in the federal **Employment Insurance Act** regulations. A critically ill adult is a person 18 or older who has a life-threatening illness or injury.

Who can take critically ill adult leave?
- Immediate and extended family, Contact Labour Standards if you have questions.
- A person like family: A person (related or not) who considers the critically ill adult to be like a close relative, or that the critically ill adult considers like a close relative. If the employer requests, the employee must provide a statement confirming this. Employees wishing to take a Leave for a person in this category must provide their employer, if requested, with a completed copy of the **Family Member Attestation form**, available from Employment and Social Development Canada (ESDC). For those not applying for EI, an alternate statement may be provided; contact Labour Standards to learn more.

HUMAN RIGHTS CODE

For Individuals
The **Nova Scotia Human Rights Act** prohibits actions that discriminate against people based on a protected characteristic in combination with a prohibited area (see below).

Protected Characteristics

- Age
- Race
- Colour
- Religion
- Creed
- Ethnic, national or aboriginal origin
- Sex (including pregnancy and pay equity)
- Sexual orientation
- Physical disability
- Mental disability
- Family status
- Marital status
- Source of income
- Harassment (and sexual harassment)
- Irrational fear of contracting an illness or disease
- Association with protected groups or individuals
- Political belief, affiliation or activity
- Gender Identity
- Gender Expression
- Retaliation

In addition to protection from discrimination, the Act also prohibits harassment based on any of these characteristics, and prohibits sexual harassment in all areas of public life.

Prohibited Areas

Employment

- Housing or accommodation
- Services and facilities (such as stores, restaurants or provincially funded programs)
- Purchase or sale of property
- Volunteer public service
- Publication, broadcasting or advertisement
- Membership in a professional, business or trade association, or employers' or employees' organization

Payday Notice

Regular Paydays for Employees of

(Company Name)

Should be as follows:

Weekly Bi-Weekly Monthly Other

Domestic violence leave can be used by an employee to seek medical attention for themselves or their child; obtain services for themselves or their child from a victim services organization, psychological or other professional counselling (or certain culturally specific services); relocate temporarily or permanently; or seek legal or law enforcement assistance.

To take Domestic Violence Leave
An employee must advise their employer in writing as soon as possible of their intention to take domestic violence leave, and the anticipated start and end date of the leave. The employer may ask the employee to provide a written statement to the Labour Standards Division to support the employee's entitlement to domestic violence leave. It is an employer's choice whether to require the employee to provide this form to the employer. An employee can obtain the form online or by contacting the Labour Standards Division.

The longer part of domestic violence leave is up to 16 consecutive weeks. To end the longer leave early, the employee must give the employer written notice of at least 14 days before the employee wishes to end the leave, or as much notice as possible.

The shorter part of the leave is ten days, which can be taken at different times or all at once. An employee may end this leave early by giving as much notice as is reasonably possible.

Up to three days of domestic violence leave, per calendar year, must be paid by the employer. For the three paid days, each day must be paid at the employee's regular wage for all hours the employee would have worked that day if the leave had not been taken. The employee can choose which of the days are the three paid days by notifying the employer in writing of this. Otherwise, the employer must treat the first three days taken of the leave as paid days.

Any part of a day taken for domestic violence leave counts as a full day of leave. If an employee works a portion of a day, they must be paid for the time they worked on that day. Also, paid leave for any portion of a work day counts as one of the three paid days that an employee is entitled to under the Labour Standards Code. For example, if an employee takes domestic violence leave for three hours of a 7-hour shift, and works the remainder of the shift, that would count as one of the ten days of leave. Further, if the employee receives pay for the three hours of leave on that day, it will count as one of the three days of paid leave.

The law also requires that employees attempt to schedule appointments during non-working hours, if possible.

Crime-related Child Death or Disappearance Leave
Crime-related death or disappearance leave is an unpaid leave for parents and guardians who are facing the death or disappearance of their child (under 18 years of age) resulting from a probable crime. To qualify for the leave, the employee must have worked with the same employer for at least 3 months. The employee is not entitled to the leave if charged with the crime.

An employee can take up to 10 consecutive weeks of unpaid leave if their child has disappeared and up to 104 consecutive weeks if their child has died.

Where a missing child is found alive during the 52 week leave period, the employee can continue the leave for another 14 days. If the child is found dead, the disappearance leave ends immediately and the employee can start 104 weeks of leave related to the death of the child.

Where the death or disappearance no longer seems to be the result of a crime, the employee can continue the leave for another 14 days and the employee must give the employer notice in writing of their return to work as soon as possible.

The employee can end the leave early by giving the employer 14 days' written notice.

Employees who take a crime-related death or disappearance leave may qualify for income support through a federal government grant. For more information on this grant please contact **Service Canada**.

To Take Crime-related Child Death or Disappearance Leave
The employee must let the employer know in writing as soon as possible of their intention to take the leave. Where the leave must begin before written notice can be given, the employee must advise the employer of the leave as soon as possible.

The employer must also give the employer a written plan outlining the period that they will take the leave, which can be changed during the leave period with the employer's agreement or by giving the employer 4 weeks' written notice.

Emergency Leave
Employees are entitled to an unpaid leave if they are unable to perform their work because of:

- an emergency declared under the Emergency Management Act, or
- a direction or order of a medical officer—or a public health emergency declared—under the Health Protection Act, or
- an emergency declared under the Emergencies Act (Canada)

Employees are also eligible for the leave if they cannot perform their work because they need to care for a family member who is affected by one of the emergency situations noted above and the employee is the only person who can reasonably care for that family member in the circumstances.

Employees are eligible for the leave for as long as the emergency prevents them from being able to perform their work. For example, if an employee can perform their work remotely, the leave does not apply.

Emergency Leave FAQ
Sick Leave
Employees are entitled to receive up to three days of unpaid sick leave each year. This leave may be used to care for an ill parent, child, or family member. It can also be used for medical, dental, or other similar appointments for the employee or the employee's family member.

Medical Certificates for Employee Absence Due to Sickness or Injury
The Patient Care to Care Act includes measures to reduce administrative burdens on health care providers, including more time to see patients. Schedule B of the Act, the Medical Certificate for Employee Absence Act, is administered by the Labour Standards Division. This Act limits the circumstances in which employers can require employees to provide medical notes and broadens the scope of healthcare professionals who can provide them.

If the following is intended to provide general information on the Medical Certificates for Employee Absence Act. For questions about this Act, contact the Labour Standards Division.

Key Features of Medical Certificates for Employee Absence Act (the Act):

- Employers cannot require employees to provide a medical note unless:
 - the employee has missed more than five consecutive working days due to sickness or injury or
 - the employee has already had at least two non-consecutive absences of five or fewer days due to sickness or injury in the preceding 12-month period.

For example, if an employee missed six consecutive days of work (first absence), then two consecutive days (second absence) followed by four consecutive days (third absence) in a 12-month period, the employer could not ask for a medical note for only the first absence. The employer could not ask for a medical note for the second or third absence because they are not more than five consecutive days. If the employee has not had more than two non-consecutive absences of five days or less in the preceding 12-month period.

Employees must accept medical certificates from various qualified health professionals, not just physicians.

- An employee can file a complaint with Labour Standards if they believe their employer has contravened the Act.
- Labour Standards is provided with the same powers to enforce the Act as those it has to enforce the Labour Standards Code.
- Labour Standards decisions in relation to the Medical Certificates for Employee Absence Act can be appealed to the Labour Board.

Bereavement Leave
Employees can take unpaid leave of up to five working days in a row if their spouse, parent, guardian, child or child under their care, grandparent, grandchild, sister, brother, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, or brother-in-law dies.

Employees must give their employers as much notice as possible that they will take this leave.

Citizenship Ceremony Leave
Employees are entitled to take an unpaid leave of absence of up to one day, or less if the employee chooses, to attend their citizenship ceremony.

If possible, employees must give their employer 14 days' notice that they plan to take the leave. If this is not possible, they must give as much notice as is reasonably possible.

If the employer asks, the employee must provide evidence that they are attending their citizenship ceremony on a particular day, for example the "Notice to Appear" sent by Citizenship and Immigration Canada.

Disruption against an Employer
It is against the law to fire, lay off, or discriminate in any way against an employee because they have taken or have said that they intend to take away from the employer believes the employee may take—a leave of absence that the Labour Standards Division will investigate to determine if:

- the employer has good reason to fire or suspend the employee for past behavior and can show that the behaviour has not been allowed in the past (there is a history of discipline); the employer could not act for a medical note; and
- the business has stopped operating or the employee's job is no longer needed; and the employer is unable to provide other reasonable employment; the employer must show that they acted in good faith.

If Labour Standards finds an employee has been discriminated against for having taken a leave or for intending to take a leave, the employer may be ordered to bring the employee back to the job with full back pay going to the date the employee was fired. If the employer does not wish to go back to the job, Labour Standards may order a reasonable alternate remedy.

What if an employee's job is no longer available?
Employees must be given a comparable position with the same pay and benefits. There may be some circumstances where an employee is not available for the job. The employer does not have a comparable job to give the employee. In these situations, employees will need to show that the job is gone and that the leave had no impact on the decision to lay off or terminate the employee's employment. When employees are being let go because a job is being eliminated usually they must be given written notice that the job is ending or pay in lieu of notice.

WORKPLACE VIOLENCE

See signs of violence at your workplace? Report it.

CCOHS 1-800-668-4284 www.ccohs.ca

Canadian Centre for Occupational Health and Safety

WORKPLACE HARASSMENT

Workplace Harassment and Violence

Any action, conduct or comment, including of a sexual nature, that can cause offence, humiliation or other physical or psychological injury or illness

Workplace harassment and violence does not discriminate. It can happen to any worker, in any industry.

It can include:

- verbal abuse
- threatening behaviours
- intimidating actions
- physical attacks

Sexual harassment is an unwelcome sexual advance, request for sexual favour, verbal or physical conduct or messages of a sexual nature, or any other behaviour of a sexual nature that can cause offence or humiliation.

RIGHTS and RESPONSIBILITIES

All workers have the right to a safe workplace that is free of harassment and violence.

Employers should know that legal requirements for their jurisdiction regarding workplace harassment and violence, and are responsible for creating a safe workplace. It is your duty to resolve or investigate, as well as record and report all incidents of harassment and violence as required.

If you are being harassed, think you might have been harassed, or have witnessed harassment, report it.

MINIMUM WAGE

Minimum Wage
Changes to the minimum wage
The minimum wage is scheduled to increase to the following amounts:

- October 1, 2023 - \$15.00
- April 1, 2024 - \$15.20
- April 1, 2025 - \$15.70
- October 1, 2025 - \$16.50

There are three minimum wage orders:

- Minimum Wage Order (General)
- Minimum Wage Order (Construction and Property Maintenance)
- Minimum Wage Order (Logging and Forest Operations)

This section deals with the Minimum Wage Order (General). There are separate minimum wage orders for employees employed in construction and property maintenance as well as those employed in logging and forest operations. For information on those minimum wage orders, contact Labour Standards.

Minimum Wage Order (General)
The Minimum Wage Order (General) sets the minimum wage rate, which is the least amount of money an employer pays an employee for each hour of work. It also sets employment standards for the following:

- overtime, for some groups
- being called into work at times other than scheduled working hours
- employees waiting for work on the work premises
- piecework
- deductions for board, lodging, and meals
- deductions for uniforms

Minimum Wage Rate
As of April 1, 2025, employers must pay employees at least \$15.70 per hour. As of October 1, 2025, the minimum wage will rise to \$16.50 per hour.

Overtime
The Minimum Wage Order (General) contains overtime requirements for some groups. Overtime is also addressed in the Labour Standards Code and in the Construction and Property Maintenance Minimum Wage Order (see also webpage on Overtime).

Call in
If an employee is called in to work outside the employee's regular work hours, the employer must pay the employee for at least three hours of work at the minimum wage rate (that is, at least \$47.10 (\$15.70 x 3 hours)). This is true even if the employee works only one or two hours. For example, if the employee makes \$17 per hour and the employee is called in for one hour's work, the employer must pay the employee at least \$47.10.

Waiting for Work
Employees must be paid at least minimum wage for all time spent at the workplace, at the request of the employer, waiting to perform work. For example, an employee who works at a restaurant is told by the supervisor to be at work by 8:00 am. The employee arrives at work at 8:00 am but does not actually start performing work until 9:00 am when the restaurant starts to get busy. The employee works serving tables from 9:00 am to 1:00 pm and then leaves for the day. In this situation, the employee would be entitled to pay for the minimum wage rate for the time he/she spent waiting for work from 8:00 am to 9:00 am. He/she would be entitled to his/her regular rate of pay for those hours worked between 9:00 am and 1:00 pm.

Piecework
Many employers in Nova Scotia pay employees by the amount they produce and not by the hour. This arrangement is called "piecework." The Minimum Wage Order (General) says that an employer cannot pay an employee less than piecework than that employee would have earned at the minimum wage for the number of hours worked. For example, an employee is paid \$9 for each unit of work produced. During a one-week period the employee produces 40 units. The employee is entitled to be paid: \$9 per unit x 40 units, or \$360. To produce the 40 units, the employee worked 30 hours. At the minimum wage the employee would have earned \$471 (\$15.70 x 30 hours of work). The employee is entitled to be paid at least the same as if the employee was being paid the minimum wage for each hour

worked. The employee is, therefore, owed an additional \$111 (\$471-\$360). Note this rule does not apply to employees employed on a farm whose work is directly related to harvesting fruit, vegetables and tobacco.

Board and Lodging
The Minimum Wage Order (General) tells employers how much they can take from an employee's minimum wage for board and lodging that the employer provides. These amounts are as follows:

- For board and lodging for each week: \$68.20
- For board only for each week: \$55.55
- For lodging only for each week: \$15.45
- For a single meal: \$3.65

Note: An employer cannot charge an employee for a meal not being served. For employees paid more than the minimum wage, the minimum wage employee below the minimum wage by more than the above amounts.

Deductions for Uniforms
If an employer requires employees to wear uniforms, aprons, or smocks, the employer may not take the cost of the uniform from the employee's wages. If so, the employee must take the cost of the uniform from the minimum wage. For example, if an employee works 30 hours each week earning \$16.50 per hour then the employee earns \$495 (\$16.50 x 30) each week. If the employer takes \$25 off the weekly pay for a uniform, then the employee will have earned \$470 that week, or \$15.67 per hour (470 ÷ 30). Since \$15.67 per hour is below the minimum wage, the employer cannot take that much from the employee's wages for the cost of the uniform. The employer may take from the employee's wages the cost of dry cleaning a uniform that is made of wool or a heavy material. The employer may not take this even if the employee's wages then fall below minimum wage.

Employees Not Covered by the Rules
The minimum wage rules do not apply to the following employees:

- certain farm employees
- apprentices employed under the terms of an apprenticeship agreement under the Apprenticeship and Trades Qualifications Act (see NS Apprenticeship Agency)
- anyone receiving training under government sponsored and government approved plans
- anyone employed at a non-profit playground or summer camp
- real estate and car salespeople
- commissioned salespeople who work outside the employer's premises, but not for the employer's established routes
- insurance agents licensed under the Insurance Act
- employees who work on a fishing boat
- employees who fall under the minimum wage orders concerning Logging and Forest Operations and Construction and Property Maintenance
- employees who do domestic service for or give personal care to an immediate family member in a private home and are working for the household
- employees who do domestic service for or give personal care in a private home and are working for the household for 24 hours or less per week
- athletes while engaged in activities related to their athletic endeavour

FAQs
My employer wants to pay me a base salary that's less than minimum wage per hour, but also give me commission. Is that allowed?
That would be lawful as long as you earn, each pay period, at least a minimum wage (base rate plus commissions) for all time worked during that period. As an employer paid commission, you would also want to make sure you don't fall within any of the exceptions to minimum