

Employment Standards



Potential Amendments
to the Northwest Territories
Employment Standards Act

What We Heard Report

May 2019

INTRODUCTION

In December 2017, the Government of Canada made changes to the Employment Insurance (EI) program and to the Canada Labour Code, including:

Extended parental benefits – Parents can now choose to receive benefits over a maximum of 35 weeks or 61 weeks, but the total amount of benefits received is still the same.

Maternity benefits – Eligible pregnant employees can now choose to receive maternity benefits up to 12 weeks before their due date.

Family caregiver benefits for critically ill adults – Caregivers of critically ill or injured adult family members can now access this benefit for up to 15 weeks.

Family caregiver benefits for critically ill children – Immediate and extended family members can now access this benefit for up to 35 weeks.

These changes have resulted in differences between the NWT *Employment Standards Act (Act)* and the Canada Labour Code which usually include the same or similar eligible benefits.

Federally regulated workers have been eligible for these benefits since December 2017 resulting in an inconsistency of access between NWT workers.

The Government of the Northwest Territories (GNWT) is proposing to amend the *Act* and more closely align with the Canada Labour Code by:

- extending the length of maternity and parental leave;
- introducing parental sharing leave;
- extending the length of job protected compassionate care leave;
- introducing job protection for family members caring for critically ill adults; and
- introducing job protection for family members caring for critically ill children.

In addition, the GNWT is proposing to amend the legislation to introduce leave provisions for victims of domestic violence, enhance protection of domestic workers and clarify protection of construction workers.

ENGAGEMENT PROCESS

To inform the proposed amendments, the Department of Education, Culture and Employment (ECE) undertook preliminary public feedback through stakeholder interviews and an online survey for interested members of the public to provide their input. Participants included residents, business representatives, and labour and community organizations from across the Northwest Territories. In total, 50 stakeholders participated in either an online survey or through direct interviews.

Further feedback on the draft Bill will be sought through the legislative process.

OVERARCHING FEEDBACK

The following sections detail the results of the engagement process. Engagement feedback has been broken down by the type of leave or amendment, and other specific trends and comments from participants.

This section provides a summary of the input, feedback and comments received through public engagement. The feedback received was not judged as to its validity, accuracy or articulation of the issues. The report reflects the voices of the participants and is not intended to provide conclusions or recommendations.

No proposed amendments were met with explicit disagreement or significant concerns.

Parental and Maternity Leave and Parental Sharing Leave

Participants were generally well informed of the existing federal changes and were broadly supportive of proposed changes to the *Act*.

Family Caregiver Benefits for Critically Ill Adults or Children

Participants expressed concern that the definition of ‘family’ in the Family Caregiver categories may be overly broad and unspecific. It was suggested that additional clarification of eligibility be included. Broad definitions of terms such as ‘like family’ could cover a significant number of people, especially in a smaller community.

Additional questions about the definition of “gravely ill” and “significant risk of death” were also raised. Participants suggested both terms be clearly defined. There was a suggestion to provide templates for doctor’s notes.

There were no concerns raised about allowing nurse practitioners to verify leave entitlements. Participants identified this as good practice, especially in smaller NWT communities as many communities do not have full time doctors.

Domestic Workers

The extension of coverage under the *Act* to domestic workers was asked in stakeholder questions, and not as part of the online survey.

Participants provided general support of extending coverage to domestic workers. However, there were concerns about the exclusion of domestic workers employed by immediate family. It was expressed that this may account for many of the domestic workers in the NWT and questions were raised about continued exclusion.

Protection for domestic workers is predominantly covered under Regulations and any changes proposed for domestic workers will not be included in the draft Bill, but would follow through changes to Regulations.

Construction Industry

The expanded definitions for the construction industry under the *Act* and regulations was only asked in stakeholder questions, and not as part of the online survey.

Proposed efforts to better define “work of construction” were welcomed by the participants that were aware of the issue. There were additional concerns raised about missing definitions for other related terms such as “construction industry” and “person employed in the construction industry.”

Some stakeholder organizations expressed interest in being consulted about definitions being considered for the regulations. Participants found it difficult to provide specific feedback without knowing what new definitions are being considered.

The work of construction is predominantly covered under Regulations and any changes proposed regarding the definition of construction is not included in the draft Bill, but may follow through changes to Regulations.

Domestic Violence Leave

There was broad support for Domestic Violence Leave. No clear preference emerged regarding paid or unpaid leave, although there were some concerns that additional paid leave types could create a burden for employers. Some participants suggested split paid/unpaid leave (both continuous and non-continuous) as is utilized in Manitoba.

Many participants raised concerns about how an employee could prove they were a victim of domestic violence; requiring a police report, or medical note, could create challenges for employees in many communities of the NWT. Others had concerns about how the issue might be broached between employers and employees.

Some participants expressed concern about the name of this proposed leave. However, there was no clear preference between the broader *domestic violence* or *domestic abuse* which is more in line with the courts.

NEXT STEPS

This report captures what was heard from residents across the NWT. It summarizes the feedback, ideas, and suggestions provided. The information collected from the engagement process and reported in this document will be used as a foundation for potential amendments to the *Act*.

A draft Bill will proceed through the procedures and processes of the Legislative Assembly to review and potentially amend legislation.

