

Employment Standards Act Summary of Proposed Changes

Federal Employment Insurance (EI) program changes

The Government of Canada made changes to the EI program to support parents and family caregivers. The changes are:

- 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.

The *Canada Labour Code* (CLC) was also amended to ensure federally regulated workers have access to the new EI benefits. These changes have resulted in differences between the NWT *Employment Standards Act* and the CLC which usually include the same eligible benefits. The below chart outlines current EI leave, proposed changes and the reason the GNWT is proposing them.

Current and Proposed Leave Options in Northwest Territories (NWT)			
	Current leave	Proposed change	Reasons
Extended Parental Leave	<p>Extended parental leave does not currently exist in the NWT.</p> <p>Standard parental leave is 37 weeks unpaid leave that must be continuous with maternity leave.</p> <p>EI benefit rate is 55% of average weekly insurable earnings.</p>	<p>Include an Extended Parental Leave option of 61 weeks unpaid leave that must be continuous with maternity leave</p> <p>EI benefit rate of 33% of average weekly insurable earnings.</p>	<ul style="list-style-type: none"> • Aligns with the federal government. • Supports healthy families, reduces the need for childcare, offers employees greater flexibility to manage family responsibilities, and protects their employment. • Employers may be better able to hire and train interim workers, have better consistency in their workforce, and provide additional employment for temporary employees.

<p>Parental Sharing Leave New federal program proposed for June 2019</p>	<p>Does not exist.</p>	<p>Two-parent families, including adoptive and same-sex couples, agree to share parental leave that is either:</p> <p><u>Standard Parental Leave</u> – an additional 5 weeks of unpaid leave where the second parent agrees to take a minimum of 5 weeks</p> <p><u>Extended Parental Leave</u> – an additional 8 weeks of unpaid leave where the second parent agrees to take a minimum of 8 weeks</p>	<ul style="list-style-type: none"> • Encourages both parents to take an active role in family responsibilities, supports family health (post-partum depression, infant health, sibling adjustment, and long term healthy family outcomes) and consistency in care. • Supports changing expectations that women are the primary caregiver, indirectly supports women in the workforce, assists with sibling care, and supports interim workers gain experience and exposure in the workforce.
<p>Family Caregiver Benefit for Adults</p>	<p>Does not currently exist in the NWT.</p>	<p>Provide up to 16 weeks unpaid leave for eligible persons to provide care or support for an adult (18 or older) family member who is critically ill or injured.</p> <p>‘Family member’ includes immediate family and other relatives, as well as other individuals considered to be like family regardless of marriage, common-law partnership, or legal parent-child relationship.</p>	<ul style="list-style-type: none"> • Provides support for family and close friends to provide care or support to a critically ill or injured person. • Including ‘individuals considered to be like family’ supports non-traditional families and single persons who are also in need of care and support by a loved-one. • Will likely provide a better quality of personal care for critically ill or injured persons and reduce demands on government services, especially with an aging population.
<p>Compassionate Care</p>	<p>Provides for 8 weeks to be used intermittently over a 26-week period</p>	<p>Provide up to 27 weeks unpaid leave within a 52-week period for family members of a gravely ill person with significant risk of death within 27 weeks (approximately 6 months).</p> <p>‘Family member’ includes immediate family and other relatives, as well as other individuals considered to be like family regardless of marriage, common-law partnership, or legal parent-child relationship.</p>	<ul style="list-style-type: none"> • Ensures families do not have to choose between their jobs and supporting or taking care of a family member who is gravely ill and at risk of death. • Including ‘individuals considered to be like family’ supports non-traditional families and single persons who are also in need of care and support by a loved-one. • Will likely provide a better quality of personal care for the critically ill or injured persons and reduce demands on government services, especially with an aging population.

Family Caregiver Benefit for Children	Does not currently exist in the NWT.	Provide up to 37 weeks unpaid leave for eligible persons to provide care or support for a child (under 18) family member who is critically ill or injured . ‘Family member’ includes immediate family and other relatives, as well as other individuals considered to be like family regardless of marriage, common-law partnership, or legal parent-child relationship.	<ul style="list-style-type: none"> • Ensures that families do not have to choose between their jobs and supporting or taking care of a family member who is gravely ill and at risk of death. • Including ‘individuals considered to be like family’ supports non-traditional family members and close friends to provide support or care for a critically ill or injured child.
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Domestic Violence Leave

Employment provides financial stability to a vulnerable employee dealing with domestic violence. The GNWT is proposing domestic violence leave provisions be added to the *Employment Standards Act*.

Current and Proposed Leave Options in Northwest Territories (NWT)			
	Current leave	Proposed change	Reasons
Domestic Violence Leave	Does not currently exist in the NWT.	Introduce domestic violence leave which could include paid and/or unpaid leave for a standard number of days and may also include longer term protection for situations that may take more time (e.g. finding new living arrangements).	<ul style="list-style-type: none"> • Has been introduced in various Canadian jurisdictions. • A loss of wages is a significant barrier to leaving an abusive relationship. • Domestic abuse often impacts employee job performance, productivity, lateness and absenteeism in the workplace, and can also impact employers and other employees in the workplace. • Allows employees to access services that usually operate during regular business hours such as: medical, victim, and counselling services; legal and law enforcement assistance; and relocation. This establishes employment relationships as a safe space during times of personal unsafety.

Protection for Domestic Workers

The treatment of domestic workers in legislation varies across Canada. The GNWT is proposing domestic violence leave provisions be added to the *Employment Standards Act*.

Current and Proposed Leave Options in Northwest Territories (NWT)			
	Current leave	Proposed change	Reasons
Protection for Domestic Workers	Currently excluded under current legislation.	Separate standards that define and identify types of domestic workers, hours of work, overtime compensation, conditions of employment, and records kept by employers. Certain categories, such as domestic workers employed by immediate family, would be excluded.	<ul style="list-style-type: none">• Vulnerable workers in the NWT should have a basic level of protection in the workplace.• Acknowledges the unique work circumstances of domestic workers (e.g. nannies), while still ensuring protection.

Work of Construction

The *Employment Standards Act* states that “no employer shall terminate the employment of an employee who has been employed by that employer for a period of 90 days or more, unless the employer (a) gives the employee a written notice of termination indicating the date the notice is given and the date on which the employment is terminated; or (b) pays the employee termination pay. The GNWT is proposing to introduce additional definitions that speak to “work of construction” to the *Employment Standards Act*.

Current and Proposed Leave Options in Northwest Territories (NWT)			
	Current leave	Proposed change	Reasons
Work of Construction	Currently not clearly defined.	Additional definitions that speak directly to “work of construction.”	<ul style="list-style-type: none">• Employees who are employed in the construction industry are currently excluded from certain provisions including termination pay.• The existing language allows for challenges of the interpretation of who is eligible for notice of termination in the exemption regulations.