



A Guide for Employers

Maternity and Parental Leave

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PENINSULA



About Peninsula

Peninsula is an employer resource for HR and employment advice, offering guidance to small- and medium-sized businesses. For over three decades, we have supported over 50,000 businesses worldwide, across every sector and industry.

Our clients benefit from immediate access to unlimited 24/7 employment advice, legal expenses insurance, on-site HR audits, a suite of employer documents and templates, online employee management tools, and legislation updates, all of which are custom-tailored to your business. Simply put, Peninsula is an affordable alternative solution to having your own in-house human resources team. We're here to help you, anytime.

For more information, visit www.peninsulagrouplimited.com/ca.



Who is this guide for?

The essential guide for HR and employment topics dedicated to small business owners.

If you are a business owner or employer, this guide is for you.

The content is designed to address employment-related topics and provides basic information and answers to frequently asked questions.

Use this guide as a reference point for:

- Employer need-to-knows
- HR best practices
- Employment-related facts
- Legislation updates

If you require help to apply this information to your particular situation, please contact Peninsula to speak with our expert HR and employment advisors. Our dedicated employer's advice line is a complimentary service that's available 24/7 at **1(833) 247-3651**.

General Disclaimer: Peninsula is an employer resource for HR and employment advice. Employers are advised that this guide is for informational purposes only. Peninsula is not licensed to practice law in Ontario. The content in this guide is not intended to replace licensed services and the information is not intended to be legal advice.



Maternity & Parental Leave

A Resource Dedicated to Employers

This employer guide provides an overview of the basics of pregnancy and parental leave, and offers guidance on how to avoid common pitfalls.

As a small-to-medium sized business, you are constantly focused on your organization's continued success.

One of your greatest assets – your people – is a fundamental part of those efforts.

It's a two-sided street: your employees help drive your organization's productivity, while you give them opportunities and help guide their personal and professional growth.

For many people, an important part of their journey is starting a family and raising children. That's why pregnancy and parenting are among the most common reasons for employee Leave of Absence (LOA).

It is essential that, as an employer, you understand how pregnancy and parental leave works in Ontario. Specifically, you should understand:

- The rights workers are entitled to; and
- The responsibilities employers must meet.

Both factors – the rights and responsibilities – will help ensure the well-being of your employees and the continued success of your organization.

Ontario permits employees to take unpaid, job-protected pregnancy and parental leaves.

Payment of Wages

All Canadian provinces and territories provide the right for employees to take time off work to have a baby and spend time raising their children

In Ontario, employers must provide employees with unpaid, job-protected pregnancy and parental leaves.

Like other Canadian jurisdictions, Ontario employers are required to accommodate time-off for pregnancy and parental leaves, under two considerations:

1. **Pregnancy Leave** for the birth mother, and
2. **Parental Leave** for either parent to spend time with their kids.

This document describes the rights and responsibilities for such Leaves of Absence (LOAs). As an employer, you should familiarize yourself with the rights and responsibilities outlined in the following pages, as well as the relevant laws and practices that govern these LOAs.

Employer's Responsibilities

Ontario's practices for pregnancy and parental leaves are set by:

- Provincial legislation such as the Ontario **Employment Standards Act, 2000**
- Federal employment policies such as the Employment Insurance (EI) program
- The **Ontario Human Rights Code**

Employers must provide a leave of absence to full-time, part-time, permanent or term contract employees.

Employment Standards Act, 2000

The Employment Standards Act, 2000, known as the ESA, is the law that sets minimum employment standards in Ontario.

Employees eligible for these LOAs include:

- A person who is pregnant or has given birth
- A person adopting a child
- A person in a relationship with a parent of a child, who plans to treat the child as their own

These leave entitlements are available to full-time, part-time, permanent or term contract employees who are:

- Employed by an employer that is covered by the ESA; and
- Has been employed for at least 13 weeks before commencing the parental leave.

Unpaid, Job-Protected Leave

What does the ESA mean by “**unpaid, job-protected leave**”?

As an employer, you are not required to pay the employee while they are on leave.

Some large organizations may have their own practices for top-up payments, flexible working hours or other arrangements, but those programs are specific to their HR strategies, rather than any requirement.

You are required to keep the person’s job protected. You may hire a replacement worker to cover the job while the employee is on leave, but the employee is entitled to return to that position when their leave is finished.

If your organization has a restructuring that changes their job, then the employee is entitled to return to work in a comparable position.

If your organization undergoes significant downsizing or even business closing, then it may not be possible to reinstate that employee following their leave. However, you must be able to demonstrate that no comparable job remains for the employee.

Accruing Vacation Time

Ontario is different from other provinces and territories in that employees are given the right to continue accruing vacation time while on leave. Your employee may be away on leave, but he or she is still accruing vacation time as they normally would.





Employer Obligations for Pregnancy and Parental Leave

Pregnancy and Parental Leave

It's important to remember that we are talking about two different leaves:

1. **Pregnancy Leave** for the birth mother, and
2. **Parental Leave** for either parent to spend time with their kids.

In Ontario, pregnant employees are entitled to 78 weeks' leave: 17-week pregnancy leave plus 61-week parental leave.

Pregnancy Leave

Up to a maximum of 17 weeks

The ESA gives pregnant employees up to 17 weeks of job-protected, unpaid time off work. Pregnancy leave can be taken anytime from 17 weeks before the baby is due. Once the baby is born, she may also qualify for parental leave.

The baby's expected birth date (the due date) must be at least 13 weeks after the employee's date of hire.

Employees must hold the job for 13 weeks before the leave begins.

Parental Leave

A new parent also has the right to take job-protected, unpaid time off work once a child is born or first comes into their care.

Parental leave applies to:

- Birth parents
- Adoptive parents
- A person in a relationship with a parent of a child, who plans to treat the child as their own

For birth mothers who **take pregnancy leave**, they are entitled to take up to 61 weeks of parental leave.

For birth mothers who **do not take pregnancy leave** and all other new parents, they are entitled to take up to 63 weeks of parental leave.

Parental leave must begin no later than 78 weeks after the date the child was born or first came into their care.

The ESA stipulates that the employee must have worked in your organization for a minimum of 13 weeks prior to either the due date or the day the leave commences.

Communicate Clearly

It is important that employers and employees communicate clearly on these rights and responsibilities. The ESA reflects this, requiring that employees must inform the employer in writing two weeks before beginning a pregnancy or parental leave. If the employee intends to change the end date of their leave, they must provide four weeks written notice.



Employment Insurance (EI) Benefits

Employers are not obligated to pay employees while they are on leave. However, the federal government's Employment Insurance (EI) program provides benefits for pregnancy or parental leave.

For more information on EI availability, benefits, qualification requirements, and payment amount, ask Peninsula's HR experts at client.solutions@peninsula-ca.com.



Ontario Human Rights Code

As an employer, it is important to understand your obligations to accommodate pregnant employees.

Finally, employers should understand that the Ontario Human Rights Code (OHRC) outlines protections for women who are pregnant, including their employment rights.

The OHRC states that:

If your employee is or may become pregnant, they have the right to keep their job and should not be overlooked for benefits and opportunities, such as:

- Being hired or promoted
- Training
- Assignments to important or more challenging projects
- Resuming the same job following pregnancy or parental leave.

The Code also states that pregnant employees have a right to request changes to job duties or rules that affect their well-being when it comes to health. As an employer you must accommodate their needs unless doing so would cause undue hardship.



Summary

Maternity and Parental Leave

Employees who take leave to have a baby or begin caring for children is a normal part of our working lives.

As a growing organization, you aim to achieve a balance. You want your employees to develop their personal and professional lives. At the same time, you need the flexibility to keep your resources focused and continue striving for greater productivity.

Ontario's 78-week program consists of two parts: a 17-week leave for the pregnant employee, followed by a 61-week leave for the parents.

Remember: your main responsibility is to keep the employee's job protected while they are on leave. If your organization changes while they are away, then you are required to give them a comparable position when they return.

Employers are not required to pay the employee, although most workers are eligible for benefits through the federal Employment Insurance (EI) program.

Continue supporting your people and building your organization. Those are the keys to success!

Learn More

To determine how Ontario's Employment Standards Act applies to your organization, contact Peninsula today. We are dedicated to providing small business owners with human resources support. Call us today.

1(833) 247-3651

We've got you covered.



Employer FAQ's

What are employers asking about maternity and parental leave?

Are my employees eligible for pregnancy or parental leave?

Both leaves are available for full-time, part-time, permanent or term contract employees who are:

- Employed by an employer that is covered by the ESA; and
- Was employed for at least 13 weeks prior to either the due date OR the day the leave commences.

I have an employee who wants to take pregnancy or parental leave. What steps should I take?

1. Sit down with the employee and look at the dates that they want to take as leave. Make sure the employee understands his or her rights to take leave and that you both understand the dates involved.
2. Have the employee submit a request in writing that specifies those dates.
3. Direct the employee to visit the Service Canada website or a Service Canada centre to better understand their eligibility for Employment Insurance benefits.
4. Assure the employee that you will provide a Record of Employment (ROE) as part of their application for EI benefits.

Should I keep the employee's job for them while they are on leave?

Yes. Your employee is entitled to job-protected leave. You may hire a replacement worker to cover the job while the employee is on leave, but the employee is entitled to return to that position or a comparable job when their leave is finished.

Am I required to pay employees while they are on pregnancy or parental leave?

No. The employee is entitled to **unpaid** leave.

You may hear about large organizations sometimes offer top-up payments to employees who are on leave, but that is part of their company's HR practices. It is not a requirement.

Employer FAQ's

...continued

My employee says they want to stay at work. Can they do that?

Yes. The leaves are a right, but not an obligation. If an employee wants to continue working, they can do so. They could also take part of the leave without taking the full amount. However, they must take the leave continuously and not in parts.

I have an employee who wants to take Parental Leave in different phases – i.e., take some leave, return to work for a period, then take the rest of their leave later. Can they do that?

No. Leave must be taken in a **continuous period**.

My employee believes they are entitled to Employment Insurance (EI) benefits while they are on leave. Is that true?

In many cases, employees are entitled to EI benefits while they are on pregnancy or paternal leave.

The EI program is administered by the federal government. Encourage your employee to visit the Service Canada website or a Service Canada centre and inquire about the EI benefits.

As an employer, your only responsibility is to provide the employee with a Record of Employment (ROE) so they can apply for benefits.

Can I terminate an employee while they are on leave?

No. Your general obligation is to return the employee to their same position. Of course, this may not always be possible. If your organization undergoes changes such as restructuring, downsizing or even business closing, then it may not be possible to reinstate that employee following their leave.

However, the consensus is that in the absence of significant restructuring, you are obligated to return that employee to a comparable position.



Employer Resources

Get 24-hour access to complete HR support that's affordable, immediate, and right for your business needs.



Are you a small business owner looking for HR advice? You're in the right place.

For additional information, you can continue browsing:

- The [Employment Standards Act, 2000 \(ESA\)](#)
- [Peninsula Employment Services](#)
- [Peninsula's Free Employer Downloads](#)

Or, save time and money with a quick solution. Give us a call, instead - **1(833) 247-3651**