



Legislation and Case Law Governing Pregnancy and Parental Leave

Employment Standards Act (ESA)	The provincial legislation setting out minimum employment standards affecting certain terms and conditions of employment. The legislation establishes the rights and benefits relating to pregnancy and parental leaves.
Employment Insurance Act (EI Act)	The federal legislation setting out the terms and conditions for entitlement to employment insurance benefits during pregnancy and parental leaves.
Ontario Human Rights Code	The Ontario Human Rights Code prevents discrimination on the basis of sex which is defined to include pregnancy. Many arbitrators have relied upon the Code when deciding how to interpret legislation relating to pregnancy and parental leaves.
Arbitration Decisions	Arbitration cases have established certain rights relating to entitlement to sick leave benefits during a pregnancy leave.

Comparison of Employment Standards Act and Employment Insurance Act Provisions

	<i>Employment Standards Act</i>	<i>Employment Insurance Act</i>
Pregnancy	<ul style="list-style-type: none"> • 17 weeks leave of absence (to begin no earlier than 17 weeks before expected birth date) 	<ul style="list-style-type: none"> • 17 weeks • 1 week waiting period • 15 weeks of benefits (to begin no earlier than 8 weeks prior to expected birth date) • 1 week waiting period is calculated from the Sunday of the week of application before benefits are payable
Parental	<ul style="list-style-type: none"> • 61 weeks leave if following pregnancy leave • 63 weeks to begin not later than 52 weeks after child is born or comes into custody, care and control for the first time 	<ul style="list-style-type: none"> • Up to 61 weeks – no second waiting period if benefits shared between parents • Up to 63 weeks – 1 week waiting period and 62 weeks of benefits
Other	<ul style="list-style-type: none"> • 2 weeks written notification required • Notice does not apply where birth occurs earlier than expected 	<ul style="list-style-type: none"> • 600 hours of insurable employment required to qualify

