

1999 BILL 215

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Third Session, 24th Legislature, 48 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 215

EMPLOYMENT STANDARDS (PARENTAL LEAVE)  
AMENDMENT ACT, 1999

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MR. CAO

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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*Bill 215*  
*Mr. Cao*

## **BILL 215**

1999

### **EMPLOYMENT STANDARDS (PARENTAL LEAVE) AMENDMENT ACT, 1999**

*(Assented to \_\_\_\_\_, 1999)*

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

Amends SA  
1996 cE-10.3

**1 The *Employment Standards Code* is amended by this Act.**

**2 Section 1(1) is amended**

**(a) by repealing clause (o);**

**(b) by adding the following after clause (s):**

(s.1) “parental leave benefits” means the rights  
and obligations described in Part 2, Division  
7;

**3 The heading preceding section 45 is repealed and the following is substituted:**

#### **Division 7 Parental Leave Benefits**

**4 Sections 45 to 50 are repealed and the following is substituted:**

## Explanatory Notes

**1** Amends chapter E-10.3 of the Statutes of Alberta, 1996.

**2(a)** Section 1(1)(o) presently reads:

*(o) "maternity and adoption benefits" means the rights and obligations described in Part 2, Division 7;*

**(b)** Adds new definition.

**3** Heading presently reads:

*Division 7  
Maternity and Adoption Benefits*

**4** Sections 45 to 50 presently read:

*45 A pregnant employee who has been employed by an employer for*

Entitlement to parental leave

**45** An employee who has been employed by an employer for at least 12 consecutive months is entitled to parental leave without pay.

Length of parental leave

**46(1)** Subject to section 47, an employee who requests parental leave under this division is entitled to up to 27 consecutive weeks of unpaid leave beginning

- (a) for the birth mother, during the 12 weeks immediately before the estimated date of delivery,
- (b) for the birth father, within 52 weeks after the child's birth,
- (c) for an adopting parent, within 52 weeks after the date the adoptive parent or parents first obtain custody of the child.

(2) An employee who gives birth must take parental leave of at least 6 weeks immediately following the date of delivery, unless the employee and her employer agree to shorten the period by the employee's giving her employer a medical certificate indicating that resumption of work will not endanger her health.

Aggregate parental leave

**47** Either or both parents may take parental leave with respect to the birth or adoption of a child, but the aggregate amount of leave of absence from employment that may be taken by 2 parents shall not exceed 27 weeks.

Notice of parental leave

**48(1)** Except as provided in section 49, an employee must give the employer at least 2 weeks' written notice of the date the employee will start parental leave.

- (2) If required by the employer, the employee shall provide
- (a) a medical certificate providing evidence of the employee's entitlement to leave including the estimated date of delivery, or
  - (b) in the case of an adoption, the date on which the employee can reasonably expect to first obtain custody of the child.

*at least 12 consecutive months is entitled to maternity leave without pay.*

*46(1) The maternity leave to which a pregnant employee is entitled is*

- (a) a period of not more than 18 weeks starting at any time during the 12 weeks immediately before the estimated date of delivery,*
- (b) if the actual date of delivery is after the estimated date of delivery, an additional period of time between the estimated and the actual date of delivery, and*
- (c) if, after the date of delivery, the medical condition of the mother or child prevents the employee from returning to work, a further period of maternity leave of not more than 3 weeks if the employee provides a medical certificate indicating that, due to her or her child's medical condition, the employee is not able to return to work.*

*(2) Maternity leave must include a period of at least 6 weeks immediately following the date of delivery, unless the employee and her employer agree to shorten the period by the employee's giving her employer a medical certificate indicating that resumption of work will not endanger her health.*

*47(1) A pregnant employee must give her employer at least 2 weeks' written notice of the date she will start her maternity leave, and if so requested by her employer, the pregnant employee must provide her employer with a medical certificate certifying that she is pregnant and giving the estimated date of delivery.*

*(2) A pregnant employee is entitled to start maternity leave on the date specified in the notice given to her employer under subsection (1).*

*48 An employee who does not give her employer prior notice of maternity leave before starting it is still entitled to maternity leave if, within 2 weeks after she ceases to work, she provides her employer with a medical certificate*

- (a) indicating that she is not able to work because of a medical condition arising from her pregnancy, and*
- (b) giving the estimated or actual date of delivery.*

**(3)** An employee is entitled to start parental leave on the date specified in the notice provided to the employer under subsection (1) subject to providing any information required under subsection (2).

No notice of parental leave

**49(1)** An employee who does not give the employer prior notice of parental leave before starting it is still entitled to parental leave if

- (a) when the employee is the birth mother, the employee provides the employer with
  - (i) a medical certificate indicating that she is not able to work because of a medical condition arising from her pregnancy, and
  - (ii) giving the estimated or actual date of delivery,

or

- (b) when the employee is the birth father, the employee provides the employer with a medical certificate indicating the actual date of delivery.

**(2)** When the employee is an adoptive parent and is unable to give prior written notice of parental leave, the employee must provide written notice to the employer as soon as possible after receiving notice of the adoption.

Notice by employer to start maternity leave

**50** If during the 12 weeks immediately before the estimated date of delivery the pregnancy of an employee interferes with the performance of her duties, an employer may give the employee written notice requiring her to start parental leave.

**5** The heading preceding section 51 is repealed.

**6** Section 51 is amended by repealing subsection (1) and substituting the following:

Termination of employment prohibited during parental leave

**51(1)** No employer may terminate the employment of, or lay off, an employee who is entitled to or has started parental leave.

*49 If during the 12 weeks immediately before the estimated date of delivery the pregnancy of an employee interferes with the performance of her duties, an employer may give the employee written notice requiring her to start maternity leave.*

#### *Adoption Leave*

*50(1) Adoption leave is a period of not more than 8 weeks' leave, without pay, starting on the date the adoptive parent first obtains custody of the child.*

*(2) An employer must grant adoption leave to an employee who is the adoptive parent of a child under 3 years of age if*

*(a) the employee has been employed by the employer for at least 12 consecutive months, and*

*(b) the employee gives written notice to the employer of adoption leave at least 2 weeks before the employee can reasonably expect to first obtain custody of the child.*

*(3) When an employee is unable to give written notice of adoption leave, the employee must give notice to the employer as soon as possible after receiving notice of the adoption.*

*(4) An employer is not required to grant adoption leave to more than one parent of an adoptive child.*

**5** Heading presently reads:

*Rules Common to Maternity and Adoption Benefits*

**6** Section 51 presently reads:

*51(1) No employer may terminate the employment of, or lay off, an employee who*

**7 Section 52 is amended**

- (a) in subsection (1) by striking out “maternity leave or adoption leave” and substituting “parental leave”;**
- (b) in subsections (2), (3) and (4) by striking out “maternity or adoption” wherever it occurs and substituting “parental”.**

**8 Section 53 is amended by striking out “maternity or adoption” wherever it occurs and substituting “parental”.**



(a) *has started her maternity leave, or*

(b) *is entitled to or has started adoption leave.*

(2) *Subsection (1) does not apply if an employer suspends or discontinues in whole or in part the business, undertaking or other activity in which the employee is employed, but the obligation of the employer to reinstate the employee or provide the employee with alternative work in accordance with section 53 continues to apply.*

**7** Section 52 presently reads:

*52(1) An employee who wishes to resume working after maternity leave or adoption leave ends must give the employer at least 2 weeks' written notice of the day on which the employee intends to resume work.*

(2) *The employer must*

(a) *reinstate the employee in the position occupied when maternity or adoption leave started, or*

(b) *provide the employee with alternative work of a comparable nature*

*at not less than the earnings and other benefits that had accrued to the employee when the maternity or adoption leave started.*

(3) *An employer is not required to allow an employee to whom maternity or adoption leave has been granted to resume employment until 2 weeks after receipt of the employee's notice of intention to return to work.*

(4) *An employee who does not wish to resume employment after maternity or adoption leave must give the employer at least 2 weeks' written notice of intention to terminate employment.*

**8** Section 53 presently reads:

*53 If the business, undertaking or other activity of an employer is suspended or discontinued in whole or in part during an employee's maternity or adoption leave and the employer has not resumed operations when the employee's leave ends, the employer must, if the operation is subsequently resumed within 12 months following the end of the leave,*

**9 The following provisions are amended by striking out “maternity and adoption benefits” wherever it occurs and substituting “parental leave benefits”:**

section 2(2);  
section 3(1)(b)(i);  
section 3(2);  
section 14(4)(f);  
section 141(4) and (5).

**10 Section 82(1)(b) is amended by striking out subclause (i) and substituting the following:**

- (i) contrary to section 51(1), because the employee was entitled to or had started parental leave,

- (a) *reinstate the employee in the position occupied at the time the maternity or adoption leave started, at not less than the earnings and other benefits that had accrued to the employee, or*
- (b) *provide the employee with alternative work in accordance with an established seniority system or practice of the employer in force at the time the employee's maternity or adoption leave started, with no loss of seniority or other benefits accrued to the employee.*

**9** Changes to reflect new terminology.

**10** Section 82(1) presently reads:

*82(1) An employee may make a written complaint to an officer that*

- (a) *the employee is entitled to earnings;*
- (b) *the employment of the employee was suspended or terminated or the employee was laid off*
  - (i) *contrary to section 51(1), after the employee started maternity leave or because the employee was entitled to or had started adoption leave,*
  - (ii) *for the sole reason that garnishment proceedings are being or might be taken against the employee,*
  - (iii) *because the employee gave evidence or may give evidence at any inquiry or in any proceeding or prosecution under this Act,*
  - (iv) *because the employee requested or demanded anything to which the employee is entitled under this Act, or*
  - (v) *because the employee made or is about to make any*

**11 Section 90(5) is amended by striking out “Maternity and Adoption Benefits” and substituting “Parental Leave Benefits”.**

Transitional

**12 Where on the coming into force of this Act, an employee is**

- (a) entitled to maternity or adoption benefits, or**
- (b) has started maternity or adoption leave as it existed prior to the coming into force of this Act,**

**the employee shall be entitled to parental leave benefits and parental leave as prescribed by this Act.**

Coming into force

**13 This Act comes into force on Proclamation.**

*statement or disclosure that may be required of the employee under this Act.*

**11** Section 90(5) presently reads:

*(5) An order of the Director for compensation under section 89(3)(b) may direct payment for a period not exceeding 6 months from the date that the employment of the employee was suspended or terminated, that the employee was laid off or that the employer failed to reinstate the employee or to provide the employee with alternative work, in accordance with Part 2, Division 7, Maternity and Adoption Benefits.*

**12** Transitional.

**13** Coming into force.