

Information on LABOUR STANDARDS

7 SICK LEAVE AND WORK-RELATED ILLNESS AND INJURY LEAVE

Part III of the *Canada Labour Code* (Labour Standards)

The Canada Labour Code provides for leave for illness or injury in Division XIII and for work-related illness and injury in Division XIII.1 of Part III.

The following questions and answers will be of interest to employers and employees under federal jurisdiction. Pamphlet 1 of this series describes the types of businesses covered by the Code. It is available from any Labour Program office of Human Resources and Skills Development Canada and on the HRSDC website.

SICK LEAVE

1. What are the sick leave provisions of the Code?

Generally, the Code provides protection against dismissal, lay-off, suspension, demotion or discipline because of absence due to illness or injury.

2. Who is entitled to sick leave protection?

Employees who have completed three consecutive months of employment with the same employer.

3. For how long is an employee protected?

An employee is protected for any absence not exceeding 12 weeks.



4. Is a doctor's certificate required?

Yes. If the employer requests in writing a medical certificate within 15 days of an employee's return to work, the employee must provide one.

5. Is the employer required to continue salary payments while the employee is absent?

No. The *Code* provides job security only. There is no provision for paid leave of absence. Some employees, however, may be entitled to cash benefits under the *Employment Insurance Act*.

Information about eligibility and benefits may be obtained at any Human Resource Center of Canada.

6. Is the employer required to maintain employee benefit plans during absences under this provision?

Yes. Pension, health and disability benefits, and seniority continue to accrue during an employee's absence. The employee is responsible for any contributions normally required and must pay them within a reasonable time. The employer must continue to pay the same share of contributions as if the employee were not on leave, provided the employee makes the required contributions.

7. What happens if the employee does not make the required contributions? Does it affect the employee's employment status with the employer?

If the employee does not make the required contributions, the employer is not obliged to pay the employer's portion. It should be noted that failure to pay may affect the benefit plans themselves. Consequently, employees should find out from their employer the impact of non-payment. Nonetheless, failure to pay does not affect an employee's status with the employer. Service after the employee's return to work is deemed to be continuous with service prior to the absence.

WORK-RELATED ILLNESS AND INJURY

8. Who is entitled to leave due to a work-related illness or injury?

Any employee who has suffered a work-related illness or injury is entitled to leave. The employer may not dismiss, lay-off, demote or discipline any employee because of an absence of this nature.

9. What is an employer's obligation to an employee who has a work-related illness or injury?

Every employer shall subscribe to a plan that provides an employee who is absent from work due to work-related illness or injury with wage replacement. Such a wage replacement is payable at

an equivalent rate to that provided under the applicable workers' compensation legislation in the employee's province of permanent residence.

10. Is the employer obliged to return an employee to work after the work-related illness or injury?

Yes. Subject to the Regulations, the employer shall, where reasonably practicable, return an employee to work.

11. Under which circumstances may an employer reassign an employee after an absence due to work-related illness or injury?

An employer may assign to a different position, with different terms and conditions of employment, any employee who, after an absence due to work-related illness or injury, is unable to perform the work done prior to the absence.

12. Do benefits continue while an employee is absent due to work-related illness or injury?

Yes. See questions 6 and 7 of this pamphlet.

This publication is provided for information only. For interpretation and application purposes, please refer to Part III of the *Canada Labour Code* (Labour Standards), the *Canada Labour Standards Regulations*, and relevant amendments.

You can order additional copies of this publication, indicating the departmental catalogue number LT-035-03-05, from:

Enquiries Centre
Human Resources and
Skills Development Canada
140 Promenade du Portage,
Phase IV, Level 0
Gatineau, Quebec
K1A 0J9
Fax (819) 953-7260
E-mail: publications@hrsdc-rhdcc.gc.ca

©Her Majesty the Queen in Right of Canada, 2005

Cat. No.: HS23-2/7-2005
ISBN: 0-662-68716-7

Notes: