



Labour Program: fair, safe and productive workplaces

More Flexibility for Parents

Discussion Paper



You can download this publication by going online:
publiccentre.esdc.gc.ca This document is available on demand in
multiple formats by contacting
1 800 O-Canada (1-800-622-6232),
teletypewriter (TTY), 1-800-926-9105.

© Her Majesty the Queen in right of Canada, 2016

droitdauteur.copyright@HRSDC-RHDCC.gc.ca

PDF

Cat. No.: Em8-21/2016E-PDF
ISBN: 978-0-660-06269-3

ESDC

Cat. No. : CA-626-08-16E

Overview

Each year, hundreds of thousands of Canadian families welcome new children, and they must balance their work and responsibilities to care for their children during this important time.

The Government of Canada is committed to providing more flexible Employment Insurance (EI) maternity and parental benefits and unpaid job-protected leave under the *Canada Labour Code* (CLC) to enable parents to select what best fits their family situation.

We are seeking the views of Canadians on the design of these benefits and leave, including:

- flexibility in the duration of EI parental benefits and CLC leave; and
- earlier access to EI maternity benefits and CLC leave for eligible pregnant workers due to workplace health and safety risks

Background: About Canada's Maternity and Parental Benefits and Leave

The EI program provides temporary income support to replace lost employment income to individuals who are off work due to pregnancy/childbirth and caring for a newborn or newly adopted child:

- The maternity benefit provides up to **15 weeks** of benefits to EI-eligible birth mothers, including surrogates, related to childbearing and to support physical and/or emotional recovery during the weeks surrounding the birth. These benefits are payable as early as 8 weeks prior to the expected date of birth, and as late as 17 weeks after the birth of the child.
- The parental benefit provides up to **35 weeks** of support to EI eligible parents (biological and adoptive parents) who leave the workforce to care for a newborn or newly adopted child or children. The parental benefit is offered per family and may be shared—it can be taken at the same time by eligible parents, or separately. Benefits may be taken in the 52 weeks following the birth or placement of a child for adoption. The benefit and leave are available to eligible opposite-sex and same-sex parents.

Some exceptions apply to the period during which these benefits must be taken, such as if the child is hospitalized, or the employee is eligible for another EI special benefit.

To qualify for EI maternity and parental benefits, individuals require 600 insurable hours of work in the year preceding their claim. The EI program is designed to replace 55 percent of previous employment earnings up to a maximum weekly amount of \$537.

Self-employed workers may opt into the EI program and become eligible to collect maternity and parental benefits. To qualify, they must opt in at least one full year prior to claiming EI benefits and need to have earned a minimum of \$6,820 in the previous year.

The *Canada Labour Code* (CLC) currently provides corresponding unpaid job-protected maternity and parental leave for employees under federal jurisdiction¹. Under the CLC, an employee working in a federally regulated enterprise who has completed six consecutive months of continuous employment with the same employer is entitled to:

- Up to 17 weeks of unpaid maternity leave (which can be taken up to 11 weeks prior to expected birth date and up to 17 weeks following childbirth).
- Up to 37 weeks of unpaid parental leave. The leave can be taken during the 52-week (one year) period beginning on the day the child is born or is placed for the purposes of adoption in the employee's home. The total amount of leave that may be taken by two employed parents in respect of the same birth or adoption cannot exceed 37 weeks.

Some exceptions apply to the periods during which these leaves can be taken, such as if the child is hospitalized or if the employee is eligible for another leave under the CLC.

For employees working under provincial and territorial jurisdictions, employment standard protections for maternity and parental leave and eligibility requirements vary.

Since 2006, the Quebec Parental Insurance Plan (QPIP)² offers maternity and parental benefits, as well a paternity benefit to residents of the province of Quebec. Accordingly, Quebec residents are not eligible for EI maternity or parental benefits. The QPIP is the only federal-provincial agreement related to maternity and parental benefits currently in place.

¹ Federally regulated enterprises include about 883,000 employees (or 6 percent of all Canadian employees) working for 11,450 employers in industries such as banking, telecommunications, broadcasting and inter-provincial and international transportation (including air, rail, maritime and trucking), as well as federal Crown corporations and certain activities on First Nations reserves.

² More information on the Quebec Parental Insurance Plan can be found at:
http://www.rqap.gouv.qc.ca/a_propos_regime/information_generale/index_en.asp

Areas for Input

Canadians are invited to discuss their views and share their experiences with EI maternity and parental benefits and CLC leave, in the following two areas:

1. Flexibility of EI maternity and parental benefits and CLC leave

There are currently two options being explored to increase the flexibility of EI benefits and CLC leave, which could be offered in addition to the currently available maternity and parental benefits and corresponding leave. In each of the options, the duration of the EI maternity benefit and leave would not be changed. Each option involves considerations for both employees and their families and their employers.

- Allow an eligible parent or parents to take a **longer** combined leave of absence from work and to receive reduced EI parental benefits over a longer period of time (up to a maximum of 18 months, when combined with maternity benefits and CLC maternity leave). This option would provide more time off work, with less money per month.
- Allow the current amount of parental benefits and unpaid leave to be taken in **smaller blocks of time** over a period of up to 18 months rather than over 12 months. For example, a parent could receive maternity and parental benefits for six months, then return to work for six months while a relative provides child care, then go back on parental leave and receive benefits for another six months.


Each of the proposed options would result in the same amount of total benefits paid, and parents would continue to be able to take benefits at the same time or separately.

The Government of Canada is looking for Canadians' views on the advantages and challenges of these options and factors which they consider in planning how to take maternity and parental benefits and unpaid leaves.

2. Flexibility to access EI maternity benefits earlier for workplace health and safety reasons

The Government supports gender equality and is interested in exploring how it may be advanced in this context. A worker who is pregnant may face unique challenges. In cases where an employee's work poses a health and safety risk to her or her fetus, the employee may face a difficult decision on whether to continue working until she can access maternity benefits and leave.

For employees in federally regulated industries, pregnant employees supported with a medical certificate can request modifications to job functions or a job reassignment. An employee can take leave with pay until the employer either accommodates her request or notifies her that it would not be reasonably practicable to do so. In this case, the employee may take an unpaid leave of absence for the duration of the risk in addition to other



leave for which she is eligible, such as maternity and parental leave. At the end of the leave period, the employee must be reinstated in the same or a comparable position, with the same wages and benefits as if she had remained at work.

Other provinces provide pregnant workers with a right to request workplace accommodation through their human rights legislation and, in some cases, additional protections under their employment statutes. Quebec offers a preventive withdrawal leave, administered separately from maternity benefits, which provides job-protected leave with wage replacement through Quebec's Safe Maternity Experience Program.

The Government of Canada is currently exploring ways to assist pregnant workers in a health and safety risk situation. One option is to allow EI maternity benefits to be payable earlier than the current eight weeks prior to the expected due date of the child. For pregnant workers who take unpaid leaves during their pregnancy, this could provide earlier access to income support. However, this would result in fewer weeks of benefits available after the birth of the child.

The Government of Canada is looking for Canadians' views on whether changing the timing of when EI maternity benefits may begin would assist pregnant workers facing workplace health and safety risks.