

LABOUR STANDARDS ACT
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COVID-19 PUBLIC EMERGENCY LEAVE REGULATIONS

The Commissioner, on the recommendation of the Minister, under section 39.16 of the *Labour Standards Act*, R.S.N.W.T. 1988,c.L-1, and every enabling power, makes the annexed *COVID-19 Public Emergency Leave Regulations*.

Definitions

1. In these regulations,

"care relationship" has the same meaning as in section 2 of the *Family Abuse Intervention Act*; (*relation de soins*)

"COVID-19" means the coronavirus disease 2019 caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2); (*COVID-19*)

"health care professional" has the same meaning as in section 3 of the *Public Health Act*; (*professionnel de la santé*)

"health protection measure" means any quarantine, isolation or self-monitoring that a person is subject to as a result of information or directions issued or provided by a medical health officer, a health care professional, a municipality, the Government of Nunavut or the Government of Canada, related to COVID-19, where the person subject to the health protection measure is

- (a) within Nunavut; or
- (b) outside of Nunavut, if travel outside of Nunavut was necessary for medical reasons; (*mesure de protection de la santé*)

"immediate family member" means

- (a) an employee's spouse;
- (b) a child, step-child, foster child, grandchild, parent, step-parent, sibling or step-sibling of an employee or their spouse; or
- (c) a relative permanently residing in the employee's household or with whom the employee presently resides; (*membre de la famille immédiate*)

"medical health officer" has the same meaning as in section 3 of the *Public Health Act*; (*médecin-hygiéniste*)

"state of public health emergency" means the state of public health emergency for all of Nunavut declared on March 20, 2020 to address the COVID-19 pandemic and includes any continuous or non-continuous extension of that state of public health emergency. (*état d'urgence sanitaire publique*)

Application

2. These regulations apply only during the state of public health emergency.

Entitlement to leave

3. An employee is entitled to and shall be granted COVID-19 public emergency leave if they are unable to work because

- (a) the employee has or is suspected of having COVID-19;
- (b) the employee is under medical investigation, supervision or treatment due to COVID-19;
- (c) the employee is subject to a health protection measure;
- (d) the employee has underlying conditions, is undergoing treatments, or has contracted other sicknesses that, in the opinion of a health care professional, would make them more susceptible to COVID-19;
- (e) the employer has directed the employee not to work for a reason related to COVID-19;

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- (f) it is necessary for the employee to assist or care for an immediate family member because the immediate family member
 - (i) has or is suspected of having COVID-19,
 - (ii) is under medical investigation, supervision, or treatment due to COVID-19, or
 - (iii) is subject to a health protection measure;
- (g) it is necessary for the employee to care for an immediate family member who is a child less than 12 years of age on the first day of the period of COVID-19 public emergency leave, because
 - (i) the school or other facility that the child normally attends is closed, open only at certain times or open only for certain children due to COVID-19,
 - (ii) the child cannot attend the school or other facility that the child usually attends because the child is subject to a health protection measure,
 - (iii) the child would, in the opinion of a health care professional, be at risk of having serious health complications if they contract COVID-19, or
 - (iv) the person who usually cares for the child is not available for a reason related to COVID-19; or
- (h) it is necessary for the employee to assist or care for a person with whom the employee is in a care relationship because
 - (i) the person has or is suspected of having COVID-19,
 - (ii) the person is under medical investigation, supervision, or treatment due to COVID-19,
 - (iii) the person is subject to a health protection measure,
 - (iv) the day program or facility that the person normally attends is closed, open only at certain times or open only for certain persons due to COVID-19,
 - (v) the person cannot attend the day program or facility that the person usually attends because the person is, in the opinion of a health care professional, at risk of having serious health complications if they contract COVID-19, or
 - (vi) the care service normally provided to the person is not available for a reason related to COVID-19.

Duration of leave

4. An employee is entitled to COVID-19 public emergency leave for as long as a circumstance described in section 3 applies to the employee.

Deemed eligibility for leave

5. An employee who is eligible for COVID-19 public emergency leave shall be deemed to have been eligible for COVID-19 public emergency leave on or after the day *An Act to Amend the Labour Standards Act*, S.Nu. 2020,c.10, comes into force.

Notice

6. An employee must give the employer notice as soon as is reasonable and practicable in the circumstances.

Verification

7. (1) If requested by the employer, the employee must, as soon as is reasonable and practicable in the circumstances, provide to the employer reasonable verification that a circumstance described in section 3 applies to the employee.

Failure to provide verification

(2) An employer may deny COVID-19 public emergency leave to an employee who does not provide the verification required under subsection (1).

Verification from a health care professional

(3) Subject to subsection (4), an employer shall not request, and an employee is not required to provide, a note from a health care professional for the purposes of verification under subsection (1).

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Exception

(4) An employer may request a note verifying the opinion of a health care professional given under paragraph 3(d), and subparagraphs 3(g)(iii) and (h)(v), for the purposes of verification under subsection (1).

Confidentiality

8. All documentation or other material received in relation to an employee taking or intending to take COVID-19 public emergency leave is confidential and shall not be disclosed by an employer unless

- (a) the employee has consented in writing to the disclosure;
- (b) the disclosure is made to an officer, employee or agent of the employer who needs the record in the performance of their duties; or
- (c) the disclosure is authorized or required by law.