

Chapter 12

AN ACT TO AMEND THE LABOUR STANDARDS ACT

(Assented to June 8, 2012)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

1. **This Act amends the *Labour Standards Act*.**
2. **The following is added after section 39.8:**

PART V.2

RESERVIST LEAVE

Definitions

39.9. In this Part,

“emergency situation” means a present or imminent situation or event that is seriously affecting or could seriously affect the health, safety or welfare of persons or is substantially damaging or could substantially damage property; (*situation d’urgence*)

“reserve force” has the same meaning as in subsection 2(1) of the *National Defence Act* (Canada) and includes members of the Canadian Rangers; (*force de réserve*)

“service” means a period of time spent on duty with the reserve force, and includes

- (a) participation in an operation, exercise, training, search and rescue operation, emergency situation or other military activity, and
- (b) treatment, recovery or rehabilitation in respect of a physical or mental health problem that results from participation in an operation, exercise, training, search and rescue operation, emergency situation or other military activity. (*service*)

Entitlement to leave

39.10. (1) Subject to sections 39.11 and 39.12, every employee is entitled to and shall be granted a leave of absence from employment, without pay, for the duration of a period of service if he or she

- (a) is a member of the reserve force; and
- (b) has been employed by the same employer for at least six consecutive months.

Notice

(2) An employee who intends to take reservist leave shall give his or her employer at least four weeks notice in writing of his or her intention to take the period of leave, or

if it is not reasonable in the circumstances to give four weeks notice, the employee shall give his or her employer notice at the earliest reasonable opportunity.

Content of notice

(3) The notice required under subsection (2) must give the date on which the leave will begin and the anticipated date on which the leave will end.

Change of end date

(4) Where the date on which an employee anticipates his or her leave will end changes, the employee shall provide notice to the employer of the new end date at the earliest reasonable opportunity.

Exception during emergency situation

(5) No employee shall be denied leave under this Part during an emergency situation only because that employee has not been employed for a sufficient length of time or has not provided sufficient notice.

Proof of service

39.11. An employer may require an employee requesting reservist leave to provide a certificate from an official with the reserve force stating that the employee is a member of the reserve force and is required for service.

Exemption for undue hardship

39.12. (1) Where granting reservist leave to an employee would cause an employer undue hardship, the employer may request that the Labour Standards Officer exempt the employer from the requirement to grant the leave.

Labour Standards Officer may issue exemption

(2) On request of an employer under subsection (1), the Labour Standards Officer may exempt the employer from the requirement to grant the reservist leave if the Labour Standards Officer determines that granting the leave would cause the employer undue hardship.

Prohibition

39.13. No employer shall dismiss, suspend, lay off, demote or discipline an employee because an employee has applied for leave of absence in accordance with this Part, or take into account the intention of an employee to take leave of absence under this Part in any decision to promote or train the employee.

3. (1) Subsection 67.1(2) is amended by striking out “or 39.7” and substituting “, 39.7, or 39.13”.

(2) Paragraph 67.1(2)(a.1) is amended by striking out “Part V” and substituting “Part V, V.1 or V.2, as the case may be,” and by striking out “or 39.7” and substituting “, 39.7, or 39.13”.

4. Paragraph 72(n) is amended by striking out “or parental leave” and substituting “, parental leave, or reservist leave”.