

Chapter 10

AN ACT TO AMEND THE LABOUR STANDARDS ACT

(Assented to September 28, 2020)

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. Section 39.7 is repealed and replaced by:

39.7. An employer shall not dismiss, suspend, lay off, demote or discipline an employee due to the employee taking or intending to take a leave of absence in accordance with this Part, or take into consideration the employee taking or intending to take a leave of absence in accordance with this Part in any decision to promote or train an employee.

3. Section 39.13 is repealed and replaced by:

39.13. An employer shall not dismiss, suspend, lay off, demote or discipline an employee due to the employee taking or intending to take a leave of absence in accordance with this Part, or take into consideration the employee taking or intending to take a leave of absence in accordance with this Part in any decision to promote or train an employee.

4. The following is added after section 39.13:

PART V.3 PUBLIC EMERGENCY LEAVE

Entitlement to public emergency leave

39.14. Every employee is entitled to an unpaid leave of absence from employment under this Part in accordance with the regulations.

Prohibition

39.15. An employer shall not dismiss, suspend, lay off, demote or discipline an employee due to the employee taking or intending to take a leave of absence under this Part, or take into consideration an employee taking or intending to take a leave of absence under this Part in any decision to promote or train an employee.

Regulations for public emergency leave

39.16. (1) Subject to subsection (2), on the recommendation of the Minister, the Commissioner may make regulations

- (a) prescribing the eligibility requirements for a leave of absence under this Part;

- (b) prescribing the purposes for which a leave of absence under this Part may be taken;
- (c) prescribing the date on which the entitlement to a leave of absence under this Part commences or ends, or is deemed to commence or end, which may be before or after the date the regulation comes into force;
- (d) prescribing the duration of a leave of absence under this Part, whether for a fixed or indeterminate period of time;
- (e) respecting the extension of a leave of absence under this Part;
- (f) respecting the verification that an employer may require the employee to provide for a leave of absence under this Part, including the types of verification that are acceptable, what information the verification must contain and when the verification must be provided;
- (g) respecting the confidentiality, the disclosure or the sharing of the information or records that an employee is required to provide to an employer with respect to a leave of absence under this Part and the procedure to be followed in consideration of the information or records; and
- (h) generally respecting leaves of absence under this Part.

Restrictions on regulations

(2) Regulations made under subsection (1) may only be made with respect to the following:

- (a) states of emergency declared in all or part of Nunavut under subsection 11(1) of the *Emergency Measures Act*;
- (b) states of local emergency declared in all or part of a community under subsection 16(1) of the *Emergency Measures Act*;
- (c) states of public health emergency declared in all or part of Nunavut under subsection 40(1) of the *Public Health Act*;
- (d) public welfare emergencies, public order emergencies, international emergencies or war emergencies declared under the *Emergencies Act (Canada)*;
- (e) orders made under Part 8 of the *Public Health Act*;
- (f) orders made under section 58 of the *Quarantine Act (Canada)*.

5. The following is added before Part VI:

PART V.4
FAMILY ABUSE LEAVE

Definitions

39.17. In this Part, "care relationship", "family abuse" and "family relationship" have the same meanings as in section 2 of the *Family Abuse Intervention Act*.

Entitlement to family abuse leave

39.18. (1) An employee is entitled to family abuse leave in accordance with this Part and the regulations if the employee experiences family abuse and the leave of absence is taken for one or more of following purposes related to the family abuse:

- (a) to seek or obtain medical attention in respect of a physical or psychological injury or disability;
- (b) to seek or obtain services from a victim services organization;
- (c) to seek or obtain psychological or other professional counselling;
- (d) to seek or obtain Elder counselling;
- (e) to seek or obtain legal or law enforcement assistance, including preparing for or participating in a civil or criminal legal proceeding;
- (f) to relocate temporarily or permanently;
- (g) any other purpose prescribed by regulation.

Entitlement to family abuse leave to accompany or assist a person

(2) If a person in a family relationship with the employee, or a person in a care relationship with the employee, experiences family abuse, the employee is entitled to family abuse leave in accordance with this Part and the regulations when it is necessary to assist or accompany the person for one or more of the purposes listed in subsection (1) related to the family abuse.

Exception

(3) Subsections (1) and (2) do not apply if the family abuse is committed by the employee.

Length of unpaid family abuse leave

39.19 (1) If an employee has completed one month of continuous employment with the same employer, the employee is entitled to take, in each calendar year, both

- (a) up to 5 days of unpaid family abuse leave; and
- (b) up to 15 weeks of unpaid family abuse leave.

Length of paid family abuse leave

(2) If an employee has completed 3 months of continuous employment with the same employer, the employee is entitled to take up to 5 days of paid family abuse leave in each calendar year in addition to the employee's entitlements under subsection (1).

Leave deemed to be taken in entire days

39.20. (1) If an employee takes any part of a day as family abuse leave, the employer may deem the employee to have taken one full day of family abuse leave on that day for the purposes of section 39.19.

Leave deemed to be taken in entire weeks

(2) If an employee takes any part of a week as family abuse leave, the employer may deem the employee to have taken one full week of family abuse leave for the purposes of paragraph 39.19(1)(b).

Family abuse leave pay

39.21. If an employee takes a paid full or partial day of family abuse leave under subsection 39.19(2), the employer shall pay the employee in accordance with the regulations.

Notice to employer

39.22. An employee who wishes to take family abuse leave shall give the employer notice as soon as is reasonable and practicable in the circumstances.

Verification of family abuse leave

39.23. An employer may require an employee to provide the employer with reasonable verification with respect to the family abuse leave as provided for in the regulations.

Prohibition

39.24. An employer shall not dismiss, suspend, lay off, demote or discipline an employee due to the employee taking or intending to take family abuse leave in accordance with this Part, or take into consideration the employee taking or intending to take family abuse leave in accordance with this Part in any decision to promote or train an employee.

6. Section 72 is amended by deleting "and" at the end of paragraph (n) and adding the following after paragraph (n):

- (n.1) providing for the application of a leave of absence where an employee has been suspended, laid off, dismissed or terminated;
- (n.2) respecting whether a leave of absence can be interrupted or deferred;
- (n.3) prescribing the purposes for which family abuse leave may be taken;
- (n.4) respecting the verification that an employer may require the employee to provide for family abuse leave, including the types of verification that are acceptable, what information the verification must contain and when the verification must be provided;
- (n.5) respecting the confidentiality, the disclosure or the sharing of the information or records that an employee is required to provide to an employer with respect to family abuse leave and the procedure to be followed in consideration of the information or records;
- (n.6) respecting the wages to be paid to an employee taking paid family abuse leave; and

Coordinating amendments

7. On the coming into force of subsection 142(44) of the *Legislation Act*, introduced as Bill 37 in the Second Session of the Fifth Legislative Assembly, or if it is in force, on the coming into force of section 4 of this Act, subsection 39.16(1) of the

Act is amended by replacing "on the recommendation of the Minister, the Commissioner" with "the Minister".

Coming into force

8. (1) Sections 1 to 4 and section 7 come into force on Assent.

(2) Sections 5 and 6 come into force on a day to be fixed by order of the Commissioner.