

Chapter 18

AN ACT TO AMEND THE LABOUR STANDARDS ACT

(Assented to November 5, 2003)

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

1. **The *Labour Standards Act* is amended by this Act.**
2. **The following is added after section 39:**

PART V.1

COMPASSIONATE CARE LEAVE

Definitions

39.1. (1) The following definitions from the *Canada Labour Code* apply for the purposes of this Part only:

"common-law partner", in relation to an individual, means a person who is cohabiting with the individual in a conjugal relationship, having cohabited for a period of at least one year; (*conjoint de fait*)

"family member", in relation to an employee, means

- (a) a spouse or common-law partner of the employee;
- (b) a child of the employee or a child of the employee's spouse or common-law partner;
- (c) a parent of the employee or a spouse or common-law partner of the parent;
- (d) any other person who is a member of a class of persons prescribed for the purposes of this definition under this Act or the *Canada Labour Code* or the definition "family member" in subsection 23.1(1) of the *Employment Insurance Act* (Canada); (*membre de la famille*)

"qualified medical practitioner" means a person who is entitled to practise medicine under the laws of a jurisdiction in which care or treatment of the family member is provided, and includes a member of a class of medical practitioner prescribed for the purposes of subsection 23.1(3) of the *Employment Insurance Act* (Canada); (*médecin qualifié*)

"week" means the period between midnight on Saturday and midnight on the immediately following Saturday; (*semaine*)

Entitlement to leave

(2) Subject to sections 39.2 to 39.7, every employee is entitled to and shall be granted a leave of absence from employment of up to eight weeks to provide care or support to a family member of the employee if a qualified medical practitioner issues a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks from

- (a) the day the certificate is issued; or
- (b) if the leave was commenced before the certificate was issued, the day the leave was commenced.

Period when leave may be taken

39.2. (1) The leave of absence referred to in subsection 39.1(2) may only be taken during the period

- (a) that starts with
 - (i) the first day of the week in which the certificate is issued, or
 - (ii) if the leave was commenced before the certificate was issued, the first day of the week in which the leave was commenced, if the certificate is valid from any day in that week; and
- (b) that ends with the last day of the week in which either of the following occurs:
 - (i) the family member dies, or
 - (ii) the expiration of 26 weeks following the first day of the week referred to in paragraph (a).

Shorter period

(2) If a shorter period than that referred to in subsection 39.1(2) is prescribed for the purposes of subsection 23.1(5) of the *Employment Insurance Act* (Canada),

- (a) the certificate referred to in subsection 39.1(2) must state that the family member has a serious medical condition with a significant risk of death within that period; and
- (b) that shorter period applies for the purposes of subparagraph (1)(b)(ii).

Expiration of shorter period

39.3. When a shorter period referred to in subsection 39.2(2) has expired in respect of a family member, no further leave may be taken under this Part in respect of that family member until the minimum number of weeks prescribed for the purposes of subsection 12(4.3) of the *Employment Insurance Act* (Canada) has elapsed.

Minimum period of leave

39.4. A leave of absence under this section may only be taken in periods of not less than one week's duration.

Aggregate leave

39.5. The aggregate amount of leave that may be taken by two or more employees under this section in respect of the care or support of the same family member shall not exceed eight weeks in the period referred to in section 39.2.

Copy of certificate

39.6. If requested in writing by the employer within 15 days after an employee's return to work, the employee must provide the employer with a copy of the certificate referred to in subsection 39.1(2).

Prohibition

39.7. 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.

Commencement

39.8. This Part comes into force on the date that section 27 of the *Budget Implementation Act, 2003* (Canada) is brought into force.