Alberta Employer Alert: New Employment Leaves and Where to Find Them

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On January 1, 2018, amendments to the *Employment Standards Code,* RSA 2000, c E-9 (the "Code") came into force in Alberta. The amendments to the Code have created significant changes in employment law in Alberta, among them being the creation of seven new job-protected leaves of absence. As the amendments to the Code were drafted amid the discussion stage of the federal government's amendments to EI benefits, the new Code provided for the creation of regulations to address any amendments made to the *Employment Insurance Act,* SC 1996, c 23, or its regulations (the "EI Act").

The *Employment Standards Regulation,* Alta Reg 14/1997 (the "ES Regulation") was also amended, and included changes to the maternity leave provisions in the Code. Now, maternity leave can start at any time during the 13 weeks (up from 12 weeks) immediately before the estimated date of delivery and parental leave has been extended from 37 weeks to 62 weeks. However, it is important to note that the current copy of the Code references the old provisions (*i.e.* maternity leave starting at any time during the 12 weeks immediately before the estimated date of delivery, and parental leave of up to 37 weeks), thus creating the potential for confusion. The changes in the ES Regulation align Alberta's job-protected maternity and parental leave of absence with the amendments to the EI Act which allow parents to elect to receive EI benefits over an extended period of up to 61 weeks (up to 35 weeks of standard EI benefits or up to 61 weeks of extended EI benefits, subject to qualifying rules).

Additionally, the ES Regulation amends and replaces Critical Illness of a Child Leave with Critical Illness Leave. This preserves the Code's 36 weeks of job-protected leave to care for a critically ill child, but adds a 16-week job-protected leave to care for a critically ill adult family member. This amendment corresponds with the terms of the family caregiver benefits in the EI Act amendment. Also of interest is the definition of "family member" set out in the ES Regulation, which defines who is eligible for the leaves.

Employers must be aware that these changes are currently only reflected in the ES Regulation, not the Code. *Therefore, if you are relying solely on the Code to understand the various Alberta leaves, you are not looking at the current law — you must cross reference with the ES Regulation to understand the full leave entitlements.*

The chart below sets out the types of job-protected leave that are now available in Alberta.

Type of Leave	Maximum Length of Unpaid Leave	Reference
Maternity	16 weeks starting at any time during the 13 weeks immediately before the estimated date of delivery	ESC s.46, as amended by s.54.4 of the ES Regulation
Parental	62 weeks	ESC s.50, as amended by s. 54.3 of the ES Regulation
Reservist	During period of deployment, or 20 days in a calendar year for annual training	ESC s.53.2
Compassionate Care	27 weeks	ESC s.53.9
Death or Disappearance of a Child	52 weeks — disappearance 104 weeks — death	ESC s.53.95
Critical Illness	36 weeks — critically ill child 16 weeks — critically ill adult	ESC s.53.96, as amended by ES Regulation s.54.3 and Schedule 3
Long-term Illness and Injury	16 weeks	ESC s.53.97
Domestic Violence	10 days	ESC s.53.981
Personal and Family Responsibility	5 days	ESC s.53.982
Bereavement	3 days	ESC s. 53.983
Citizenship Ceremony	½ day	ESC s. 53.984

By

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