

Personal Emergency Leave Information

This is provided for your information and convenience only. It is not a legal document. For complete information, refer to the [Employment Standards Act, 2000](#) and its regulations.

Some employees have the right to take up to **10 days** of unpaid job-protected leave each calendar year due to illness, injury and certain other emergencies and urgent matters. This is known as **personal emergency leave**.

Regularly Employ 50 or More Employees

Only employees who work for employers that regularly employ at least 50 employees are eligible for personal emergency leave. When determining whether the 50-employee threshold has been met, all employees of the employer are counted. It is the number of employees that is counted, not the number of "full-time equivalents." Part-timers and casual employees are all included as one employee each in the count.

When a single employer has multiple locations, all employees employed at each location in Ontario are to be counted.

Example

An employer owns 5 sandwich shops with 12 employees employed in each shop. This employer regularly employs 60 employees. All employees at all 5 locations are entitled to personal emergency leave.

Reasons for Which an Unpaid Personal Emergency Leave May Be Taken

An employee who is entitled to personal emergency leave can take up to 10 days of unpaid leave due to:

- Personal illness, injury or medical emergency,
or
- Death, illness, injury, medical emergency or urgent matter relating to the following family members:
 - A spouse;
 - A parent, step-parent, foster parent, child, step-child, foster child, grandparent, step-grandparent, grandchild or step-grandchild of the employee or the employee's spouse;
 - The spouse of the employee's child;
 - A brother or sister of the employee;

- A relative of the employee who is dependent on the employee for care or assistance.

Spouse includes both married and unmarried couples, of the same sex or the opposite sex.

Illness, Injury or Medical Emergency

All illnesses, injuries and medical emergencies of the employee or of a specified family member, as listed above, will qualify an employee for personal emergency leave. It does not matter whether the illness, injury or medical emergency was caused by the employee's own actions or by external factors beyond the employee's control. For example, an employee who sprained his knee while showing off to his friends when waterskiing would still be entitled to personal emergency leave, even though the injury was a result of his own carelessness.

Generally, employees are entitled to take personal emergency leave for pre-planned (elective) surgery. Although such surgery is scheduled ahead of time (and therefore not a medical "emergency"), surgeries performed because of an illness or injury will entitle an employee to personal emergency leave.

Employees are not entitled to personal emergency leave for medically unnecessary cosmetic surgery unrelated to an illness or injury.

Urgent Matter

An employee is eligible for personal emergency leave because of the death, illness, injury or medical emergency of, or an urgent matter concerning, a specified family member, as listed above. An urgent matter is an event that is unplanned or out of the employee's control, **and** raises the possibility of serious negative consequences, including emotional harm, if not responded to.

Examples of an "urgent matter":

- The employee's babysitter calls in sick.
- The house of the employee's elderly parent is broken into, and the parent is very upset and needs the employee's help to deal with the situation.
- The employee has an appointment to meet with his or her child's counsellor to discuss behavioural problems at school. The appointment could not be scheduled outside the employee's working hours.

Examples of events that do not qualify as an urgent matter:

- An employee wants to leave work early to watch his daughter's track meet.
- An employee wants the day off in order to attend at her sister's wedding as a bridesmaid.

Interaction Between Personal Emergency Leave and Contracts that Provide Paid Sick Leave or Bereavement Leave

If a contract (which includes a collective agreement) provides a greater right or benefit than the personal emergency leave standard in the ESA, then the terms of the contract apply instead of the personal emergency leave provisions of the ESA.

If the contract does not provide a greater right or benefit than the personal emergency leave standard in the ESA, the personal emergency leave provisions of the ESA will apply to the employee. The ministry will not get involved in determining how the leave provisions of the contract are applied.

For example, a contract only provides three paid personal sick days and three paid bereavement leave days per year. It does not provide job-protected time off for any other reason. This contract does not provide a greater right or benefit than the ESA personal emergency leave provisions. This means that the employee will be entitled to 10 unpaid days of personal emergency leave per calendar year for any of the reasons listed in the ESA. If the employee takes 10 days of personal emergency leave for personal illness, the employee will have used up the entitlement under the ESA. Questions of whether any of those absences must be paid, and whether those absences draw down against the three paid sick leave days under the contract are not matters the ministry gets involved in answering.

Interaction Between Personal Emergency Leave, Family Caregiver Leave, Family Medical Leave, Critically Ill Child Care Leave, and Crime-related Child Death or Disappearance Leave

Personal emergency leave, family caregiver leave, family medical leave, critically ill child care leave, and crime-related child death or disappearance leave are different types of leaves. The purposes of the leaves, their length, the individuals with respect to whom they can be taken, and eligibility criteria vary.

See the respective chapters of this Guide for more information on each leave.

An employee may be entitled to more than one leave for the same event. Each leave is separate and the right to each leave is independent of any right an employee may have to the other leave(s).

Length of Personal Emergency Leave

Employees are entitled to up to 10 full days of personal emergency leave every **calendar** year, whether they are employed on a full time or part time basis.

There is no pro-rating of the 10-day entitlement. An employee who begins work part way through a calendar year is still entitled to 10 emergency days during the remainder of that year.

Employees cannot carry over unused personal emergency leave days to the next calendar year. The 10 days of personal emergency leave do not have to be taken consecutively.

Employees can take personal emergency leave in part days, full days, or in periods of more than one day. If an employee takes only part of a day as personal emergency leave, the employer can count it as a full day of leave.

Example: Part-day personal emergency leave

Kevin employer regularly employs at least 50 employees. Kevin's daughter is sick and her doctor has scheduled some tests at the hospital. Kevin tells his employer that he has to be away from work in the morning to take his daughter for tests.

Kevin has the right to be on personal emergency leave for the half-day needed to take his daughter for the tests. His employer does not have to count the absence as a full day of leave but can if it wishes. Because Kevin only needed half of the day, he did not have the right to take the entire day off as personal emergency leave even if his employer counted the half-day absence as a full day of leave.

The employer can only count the half-day absence as a full day of leave for the purpose of determining whether Kevin's 10 day entitlement has been used up. For example, the employer still has to pay Kevin for the half day that he worked, and has to include the hours worked for the purpose of determining whether Kevin has worked overtime or has reached his daily or weekly limit on hours of work.

Notice Requirements

Generally, an employee must inform the employer before starting the leave that he or she will be taking a personal emergency leave of absence.

If an employee has to begin a personal emergency leave before notifying the employer, the employee must inform the employer as soon as possible after starting it. Notice does not have to be given in writing. Oral notice is sufficient.

While an employee is required to tell the employer in advance that he or she is taking a leave (or, if this is not feasible, as soon as possible after starting the leave), the employee will not lose the right to take personal emergency leave if the employee fails to do so. An employer may discipline an employee who does not properly inform the employer, but only if the reason for the discipline is the failure to properly notify the employer and **not in any way** because the employee took the leave.

Proof of Entitlement

An employer may require an employee to provide evidence reasonable in the circumstances that he or she is eligible for a personal emergency leave of absence. What will be reasonable in the circumstances will depend on all of the facts of any given situation, such as the duration of the leave, whether there is a pattern of absences, whether any evidence is available, and the cost of the evidence.

Medical Notes where the Employee Was Away Because of Personal Illness, Injury or Medical Emergency

If the circumstances are such that it is reasonable for the employer to require the employee to provide a doctor's note, the employer can ask only for the following information:

- The duration or expected duration of the absence,
- The date the employee was seen by a health care professional,
- Whether the patient was examined in person by the health care professional issuing the certificate.

Employers are not allowed to require information about the diagnosis or treatment of the medical condition of the employee.

Medical Notes Where the Employee Was Away Because of the Illness, Injury or Medical Emergency of a Specified Relative

The employer is not allowed to require a medical note in respect of the relative, nor can the employee be required to give details of the medical condition of the relative. The employer may only require the employee to disclose the name of the relative and his or her relationship to the employee, and to state that the absence was required because of the relative's injury, illness or medical emergency.

Rights During Leave

Employees who take personal emergency leave are entitled to the same rights as employees who take pregnancy or parental leave. For example, employers cannot threaten, fire or penalize in any other way an employee who takes or plans on taking a personal emergency leave. See [Rights for Employees Taking Pregnancy and Parental Leaves](#) in the Pregnancy and Parental Leave chapter.

Special Rule Regarding Personal Emergency Leave

Certain professionals may not take personal emergency leave where it would constitute an act of professional misconduct or a dereliction of professional duty. For a list of professions to which this special rule applies, please refer to the EMS, Healthcare, Health Professionals and the Government, White Collar, Professionals sections in the Special Rule Tool, available at Ontario.ca/ESAtools.