



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

**EMPLOYMENT STANDARDS ACT
DOMESTIC VIOLENCE, INTIMATE PARTNER
VIOLENCE AND SEXUAL VIOLENCE LEAVE
REGULATIONS**

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For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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EMPLOYMENT STANDARDS ACT

CHAPTER E-6.2

DOMESTIC VIOLENCE, INTIMATE PARTNER VIOLENCE AND SEXUAL VIOLENCE LEAVE REGULATIONS

Pursuant to subsection 41(1) of the *Employment Standards Act* R.S.P.E.I. 1988, Cap. E-6.2, Council made the following regulations:

INTERPRETATION

1. Definitions

(1) In these regulations,

- (a) “**domestic violence**” means violence committed against a victim by a person who, in relation to an employee,
 - (i) is or has been married to the employee or is residing or has resided with the employee in an intimate relationship,
 - (ii) is or has been in a dating relationship with the employee, regardless of whether they have lived together at any time,
 - (iii) is the biological or adoptive parent of one or more children with the employee, regardless of their marital status or whether they have lived together at any time,
 - (iv) is related to the employee by blood, marriage or adoption regardless of whether they have lived together at any time, or
 - (v) resides with the employee and has care or custody of the employee;
- (b) “**intimate partner**” means a person with whom an employee is or was in a current or former dating relationship, a current or former common law relationship or a current or former marriage, and includes a current or former sexual partner and a person who, together with the employee, is the parent of one or more children, regardless of their marital status or whether they have lived together at any time;
- (c) “**intimate partner violence**” means violence committed against a victim by an intimate partner;
- (d) “**leave**” means domestic violence leave, intimate partner violence leave or sexual violence leave;
- (e) “**sexual violence**” means any sexual act or act that targets a victim's sexuality, gender identity or gender expression, whether physical or psychological in nature, that is

- committed, threatened or attempted against a victim without the victim's consent, and includes, but is not limited to, sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation;
- (f) “**victim**” means
- (i) an employee,
 - (ii) a minor child of an employee, or
 - (iii) a person for whom an employee is a primary caregiver or becomes a primary caregiver as the result of domestic violence, intimate partner violence or sexual violence, regardless of whether the person and the employee have lived together at any time;
- (g) “**violence**” includes
- (i) an assault on the victim, but does not include an act committed in self-defence,
 - (ii) a reckless act or omission that causes injury to the victim or damage to property,
 - (iii) an act or threat that causes a reasonable fear of injury to the victim or damage to property,
 - (iv) forced confinement of the victim,
 - (v) actions or threats of sexual abuse, physical abuse or emotional abuse of the victim,
 - (vi) depriving a victim of food, clothing, medical attention, shelter, transportation or other necessities of life,
 - (vii) a series of acts that collectively causes the victim to fear for safety, including following, contacting, communicating with, observing or recording any person, and
 - (viii) an act by a person solicited to do so by a domestic partner or intimate partner which, if done by the domestic partner or intimate partner, would constitute domestic violence or intimate partner violence.

Conduct that constitutes violence

- (2) For greater certainty, “violence” as defined in subclauses (1)(g)(iii), (v), (vii) and (viii) includes, but is not limited to, conduct that is communicated to or about a victim by any electronic means. *(EC188/19)*

DOMESTIC VIOLENCE, INTIMATE PARTNER VIOLENCE OR SEXUAL VIOLENCE LEAVES

2. Purposes of leave

A leave pursuant to section 22.4 of the Act may be taken for one or more of the following purposes:

- (a) to seek medical attention for a victim with respect to a physical or psychological injury or disability caused by domestic violence, intimate partner violence or sexual violence;
- (b) to obtain services from a victim services organization;
- (c) to obtain psychological or other professional counselling for a matter related to or arising from domestic violence, intimate partner violence or sexual violence;



- (d) to relocate temporarily or permanently for a reason related to or arising from domestic violence, intimate partner violence or sexual violence;
- (e) to seek legal or law enforcement assistance, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence, intimate partner violence or sexual violence;
- (f) to comply with child protection interventions and participate in child protection case planning or related activities;
- (g) for any other purpose related to or resulting from the domestic violence, intimate partner violence or sexual violence that requires the attendance of the employee during the employee's regularly scheduled work day. (EC188/19)

3. Calculating rate of pay during leave

Where the wages of an employee vary from day to day, the employee's rate of pay for each day of leave pursuant to these regulations shall be at least equivalent to the employee's average daily earnings, exclusive of overtime, for the days on which the employee worked during the 30 calendar days immediately prior to the commencement of the leave. (EC188/19)

4. Employer obligation of confidentiality

An employer shall

- (a) maintain confidentiality respecting all matters that come to the employer's knowledge in relation to a leave taken by an employee pursuant to section 22.4 of the Act; and
- (b) not disclose information relating to the leave to any person except
 - (i) an employee or agent of the employer who requires the information to carry out the person's duties,
 - (ii) with the consent of the employee to whom the leave relates,
 - (iii) as required under the *Child Protection Act* R.S.P.E.I. 1988, Cap. C-5.1, or
 - (iv) as required under the *Adult Protection Act* R.S.P.E.I. 1988, Cap. A-5. (EC188/19)

5. Disclosure of information

A person to whom information is disclosed pursuant to clause 4(b) shall not disclose it to any other person unless it is to be used for the purpose for which it was originally disclosed or for a different purpose authorized pursuant to that clause. (EC188/19)

6. Employer request for evidence of need for leave

- (1) Where an employer requires it, the employee shall provide written evidence respecting the employee's need for the leave, issued by any of the following persons:
 - (a) a social worker as defined in the *Social Work Act* R.S.P.E.I. 1988, Cap. S-5;
 - (b) a psychologist or psychological associate as defined in the *Psychologists Act* R.S.P.E.I. 1988, Cap. P-27.2;
 - (c) a medical practitioner as defined in the *Medical Act* R.S.P.E.I. 1988, Cap. M-5;
 - (d) a registered nurse or nurse practitioner as defined in the Registered Nurses Regulations (EC350/18) under the *Regulated Health Professions Act* R.S.P.E.I. 1988, Cap. R-10.1;

- (e) a member of a police service as defined in the *Police Act R.S.P.E.I. 1988, Cap. P-11.1*;
- (f) a person who provides victim services pursuant to the *Victims of Crime Act R.S.P.E.I. 1988, Cap. V-3.1*;
- (g) a community elder, spiritual counsellor or counsellor who is providing culturally specific services to the victim;
- (h) a person referred to in subsection (2).

Person approved by employer

- (2) An employer may approve a person for the purpose of providing written evidence of an employee's need for leave pursuant to section 22.4 of the Act. (*EC188/19*)

