

## Status Update: New Domestic Violence Leaves in Atlantic Canada



Mary Rolf

Three out of the four Atlantic provinces now have domestic violence leave provisions in effect. As of January 1, 2019, domestic violence leave provisions are now in force in Nova Scotia and Newfoundland. Both provinces join New Brunswick, which previously amended its provincial legislation to include domestic violence leave effective September 2018.

At this point, Prince Edward Island has passed domestic violence leave amendments to its *Employment Standards Act* but those amendments have not yet come into force.

### **Nova Scotia Labour Standards Code**

Under the *Labour Standards Code*, employees in Nova Scotia are now eligible for up to 10 days of domestic violence leave (taken either intermittently or consecutively), three days of which must be paid, as well as 16 consecutive weeks of unpaid leave. Unless the employee requests otherwise, the first three days of leave requested will be the three paid leave days.

In order to be eligible for this leave, the employee must have been with the same employer for three months. An eligible employee may take leave if he or she is experiencing domestic violence, or if the employee has a child under 18 years of age who is experiencing domestic violence.

### **Newfoundland Labour Standards Act**

Employees in Newfoundland who have been with the same employer for a continuous period of 30 days are eligible for a total of 10 days of leave (3 days of paid leave and 7 days of unpaid leave) where the employee or a person for whom the employee is a parent or a caregiver has been “directly or indirectly” subjected to domestic violence.

### **New Brunswick Employment Standards Act**

As in Nova Scotia, the New Brunswick amendments to the *Act* and *Regulations* provide eligible employees who have been with their employer for at least 90 days with up to 10 days of intermittent or continuous leave, as well as up to 16 weeks of continuous leave. The first 5 days of domestic violence leave will be paid.

An employee may take this leave if the employee experiences domestic violence or if the employee’s child experiences domestic violence.

## PEI Employment Standards Act

PEI is the only jurisdiction in Atlantic Canada that has passed domestic violence leave amendments, but not yet proclaimed these amendments into force. Once the legislation is proclaimed into force, however, employees in Prince Edward Island who have been with their employer for a continuous period of 90 days will be eligible for a total of 10 days of domestic violence leave (3 days of paid leave and 7 days of unpaid leave).

## What this means for employers

These recent amendments bring Atlantic Canada in line with most other provinces, including Ontario, Alberta, Saskatchewan, Québec and Manitoba, as well as the federal government which amended the *Canada Labour Code* to include family violence leave in 2018 (note that as in PEI, the federal amendments are not yet in force). British Columbia is now the only province which has not passed domestic violence leave provisions to date. Although a bill on the topic has been introduced in the BC Legislature on two occasions, a December 2018 Report on the Employment Standards Act prepared by the British Columbia Law Institute recommended against amending the BC Act to add new non-discretionary leaves. Given the trend across the country, it will be interesting to see whether the BC government follows this recommendation.

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## Questions? Contact Us

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**Mary Rolf** is an associate with Barteaux Durnford. She has advised clients on employment contracts and progressive discipline issues, and assisted with matters before the Nova Scotia Labour Board, Workers' Compensation Board, Canada Industrial Relations Board, and all levels of court in Nova Scotia.

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