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Federal Employee Protections Surrounding the Birth or Adoption of a Child: An Overview

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*Federal Employee Protections Surrounding the Birth or
Adoption of a Child: An Overview*
(Background Paper)

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FEDERAL EMPLOYEE PROTECTIONS SURROUNDING THE BIRTH OR ADOPTION OF A CHILD: AN OVERVIEW

1 INTRODUCTION

In the fall of 2016, consultations were undertaken by Employment and Social Development Canada to gather Canadians' views of Employment Insurance (EI) special benefits. Among the key findings revealed by the consultation was the need for reform of employee protections surrounding the birth or adoption of a child.

Notably, most participants expressed a preference for taking longer combined maternity and parental leaves at a lower benefit rate than was provided for in legislation at the time. In addition, in the presence of occupational health and safety risks or where workplace accommodations are not made available to pregnant workers, the preference was for accessing earlier leaves and benefits. Other suggestions included providing additional benefits for parents of multiple births and having more choices with respect to leaves of absence.¹

Stakeholders have also called for EI attachment benefits for adoptive parents, which they recommend should be at least equal to maternity benefits, to respond to the unique needs of these families.² There is also research that suggests that there are gaps in the protections available to low-income families and parents in non-standard employment, who may be ineligible for EI benefits or not have access to employer supports, and that changes are needed to bridge these gaps.³

Against this backdrop, this paper provides a brief overview of the main federal employee protections surrounding the birth or adoption of a child, focusing on legislative reforms that have taken place since the 2016 consultations. These protections include maternity and parental leaves and benefits, and occupational health and safety provisions for expectant and new mothers.

2 LEGISLATIVE FRAMEWORK

2.1 CANADA LABOUR CODE

Under Part III of the *Canada Labour Code*⁴ (the Code), employees in federally regulated workplaces⁵ have the right to take a leave of absence from employment for pregnancy or maternity-related matters. Employees are also eligible for parental leave to take care of a newborn or newly adopted child.

These are job-protected leaves of absence, which means that employers may not dismiss, suspend, lay off, demote or discipline an employee because the employee is pregnant or has applied for or intends to apply for them.

At the written request of the employee, employers are also required to inform employees who are away on a leave of absence of any training, employment or promotion opportunities arising during this period. Pension, health and disability benefits

continue to accumulate during the absence, provided the employee pays any necessary contributions. The seniority of the employee also accumulates during this time.⁶

At the provincial/territorial level, protections similar to those found under the Code are offered to expectant and new parents under each jurisdiction's employment standards legislation. Moreover, for the most part, these jurisdictions have amended their legislation to match recent changes to maternity and parental leaves and benefits made at the federal level (see Appendix C).

2.2 EMPLOYMENT INSURANCE ACT

While maternity and parental leaves are unpaid under federal, provincial and territorial employment standards legislation, benefits to compensate for lost wages in this regard are provided under the *Employment Insurance Act*⁷ (EI Act) (see Appendix A). Leave and benefit entitlements are offered per birth (with twins counting as one birth), rather than per child.

EI benefits are typically offered at a rate that is equal to 55% of the claimant's average weekly insurable earnings, up to a maximum amount. As of 1 January 2019, the maximum yearly insurable earnings amount is \$53,100. This means that a claimant can receive up to \$562 per week.⁸

Further, since 1 January 2017, the waiting period for EI benefits during which no compensation is provided has been reduced to one week from two. It is worth noting that claimants of both maternity and parental benefits or parents sharing parental benefits only need to serve the waiting period once.⁹

Families with an annual net family income below \$25,921 and that are in receipt of the Canada Child Benefit may be eligible for the EI family supplement. Combined, however, the EI benefits and the family supplement cannot exceed the annual maximum benefit amount of \$562 per week.¹⁰

Some employers also provide a supplemental benefit ("top-up") plan that partially or wholly covers the difference between the EI benefit rate and the employee's salary, along with the waiting period before benefits are provided. The earnings replacement rate, and the duration of payment and coverage, however, may vary among employers.¹¹

The amount of benefits provided during the maternity and/or parental leave periods can thus vastly differ between claimants, with research revealing that those in lower wage positions are less likely to receive supplemental benefits and are less likely to remain on leave for a longer period of time.¹²

EI benefits are financed by employer and employee contributions. Self-employed workers may elect to opt into the EI program to receive EI maternity and parental benefits.¹³

To date, Quebec is the only province to have opted out of the EI program with regard to maternity and parental benefits to set up its own benefits regime. Established in 2006,

the Quebec Parental Insurance Plan (QPIP) offers maternity, parental, paternity and adoption benefits to eligible employees and participating self-employed workers at a rate that can amount to as much as 70% or 75% of the employee's average weekly insurable earnings, depending on the plan chosen. In 2019, the maximum yearly insurable earnings considered when calculating QPIP benefits is \$76,500 (see Appendix B).¹⁴

3 MATERNITY LEAVE AND BENEFITS

3.1 MATERNITY LEAVE

At the federal level, the Code allows an employee to take a maternity leave of up to 17 weeks.¹⁵ This leave may be taken starting 13 weeks prior to the employee's expected date of delivery. Maternity leave may end no later than 17 weeks following the actual date of delivery.

If, however, the birth has not occurred within the 17-week leave period, the maternity leave is extended up to the day on which the child is born. In addition, if the child is hospitalized during this time, the employee can interrupt her maternity leave and temporarily return to work. In this case, the period during which the maternity leave may be taken is extended by the number of weeks the child is in hospital, up to 52 weeks after the date of delivery.

While an employee is currently required to have completed six consecutive months of continuous work with an employer in order to be eligible for maternity leave, this will no longer be the case once the relevant provisions from the *Budget Implementation Act, 2018, No. 2*,¹⁶ come into force. These provisions are expected to come into force on 1 September 2019.¹⁷ To be eligible, the employee must nevertheless provide her employer with a certificate attesting that she is pregnant. The employee must also provide written notice at least four weeks before the start of the leave, advising the employer of its intended length.

3.2 EMPLOYMENT INSURANCE MATERNITY BENEFITS

To be eligible for maternity benefits under the EI Act, an employee must meet the following criteria:

- the claimant must be unable to work because she is pregnant or has recently given birth;
- the claimant must be employed in insurable employment and have paid EI premiums;
- the claimant's regular weekly earnings from work have been reduced by more than 40% for at least one week; and
- the claimant must have accumulated at least 600 hours of insurable employment during the qualifying period.¹⁸

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EI maternity benefits are provided to biological and surrogate mothers, but not to adoptive parents, for a maximum of 15 weeks. EI maternity benefits may be taken starting the earlier of 12 weeks before the expected date of delivery and the week in which the delivery actually occurs. Maternity benefits end by 17 weeks after the expected or actual date of delivery, whichever is later.

If, however, the newborn child is hospitalized during this time, the window for payment of maternity benefits may be extended by the number of weeks the child is in hospital, up to 52 weeks from birth.

As stated above, EI maternity benefits are calculated at the basic rate of 55% of the claimant's average weekly insurable earnings, up to a maximum amount (which in 2019 is \$562). EI maternity benefits can be combined with EI regular benefits if the employee has lost her job, up to a maximum of 50 weeks. They can also be combined with other EI special benefits (such as EI parental, sickness, compassionate care and family caregiver benefits) with proof of eligibility for the latter benefits and subject to other requirements, up to a maximum of 102 weeks.¹⁹

Regarding EI sickness benefits within the maternity leave period, while pregnancy and childbirth are not considered to be illnesses, complications with respect to either may be. For example, a pregnancy that ends within the first 19 weeks is considered an illness and the claimant could be eligible for EI sickness benefits.²⁰ Conversely, a claimant whose pregnancy ends in week 20 or later may be eligible for EI maternity benefits.²¹

Under the EI Working While on Claim provisions, eligible claimants who work partial hours while receiving EI benefits can keep 50 cents of their benefits for every dollar they earn, up to a maximum of 90% of the weekly insurable earnings used to calculate their EI benefit amount. For example, a claimant receiving EI regular benefits in the amount of \$275 per week will, after finding part-time employment and earning \$300 per week, see their EI rate reduced by \$150. Such a claimant will thus take home \$125 per week in EI regular benefits plus their part-time wages of \$300 per week, totalling \$425 per week. Above the 90% cap, the EI benefits are deducted dollar-for-dollar. By contrast, claimants who work a full week are not eligible to receive EI benefits, regardless of the amount they earn.²²

3.3 HOW MATERNITY LEAVE AND BENEFITS HAVE CHANGED

The *Budget Implementation Act, 2017, No. 1* amended the Code and the EI Act to allow an employee to start her maternity leave 13 weeks (rather than 11 weeks as previously stipulated) prior to the expected date of delivery, and to begin receiving EI maternity benefits 12 weeks (rather than eight weeks as previously stipulated) prior to the expected date of delivery. At this time, the Code was also amended to extend the length of the maternity leave entitlement when the birth has not occurred within the maximum leave period. These changes came into force on 3 December 2017.²³

The EI Act was subsequently amended by the *Budget Implementation Act, 2018, No. 1*, to make the EI Working While on Claim pilot project permanent and to extend its

application to recipients of EI maternity and sickness benefits. These amendments came into force on 12 August 2018.²⁴

4 PARENTAL LEAVE AND BENEFITS

4.1 PARENTAL LEAVE

Currently, an employee in a federally regulated workplace is entitled to up to 63 weeks of parental leave under the Code²⁵ to care for a newborn or newly adopted child. If, however, both parents take parental leave, their combined leave periods must not exceed 71 weeks. Regardless, parental leave may only be taken within the 78-week period following the birth of the child or the day the child comes into the care of the employee.

An employee who has completed maternity leave can subsequently take parental leave. In this case, although the Code provides for up to 17 weeks of maternity leave, the total duration of the employee's combined maternity and parental leaves must not exceed 78 weeks. Where the parental leave is shared between both parents, the aggregate amount of maternity and parental leaves must not exceed 86 weeks. Employees are neither required to, nor prevented from, taking their share of parental leave at the same time.

Under certain circumstances (such as when the child is hospitalized or when the employee has to take compassionate care leave, leave related to critical illness of a child, sick leave, or work-related illness or injury leave), it is possible to interrupt the parental leave. In these situations, the period during which parental leave may be taken is extended by the number of weeks the child is hospitalized, or the employee is on another leave, subject to a maximum of 104 weeks after the birth of the child or the day the child comes into the employee's care.²⁶

While an employee is currently required to have completed six consecutive months of continuous work with an employer in order to be eligible for parental leave, this will no longer be the case once the relevant provisions from the *Budget Implementation Act, 2018, No. 2* come into force. These provisions are expected to come into force on 1 September 2019.²⁷ The employee must nevertheless provide written notice at least four weeks before the start of the leave, advising the employer of its intended length.

4.2 EMPLOYMENT INSURANCE PARENTAL BENEFITS

In addition to being employed in insurable employment, having paid EI premiums, having had their regular weekly earnings reduced by more than 40%, and having accumulated at least 600 hours of insurable employment during the qualifying period, an employee claiming parental benefits must demonstrate that they are unable to work because they are a parent caring for a newborn or newly adopted child.

There are two options available for receiving parental benefits under the EI Act:

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- 35 weeks at 55% of a claimant's average weekly insurable earnings (standard option); or
- 61 weeks at 33% of their average weekly insurable earnings (extended option).

If parental benefits are shared, both parents are required to be on the same option, either standard or extended. Parents can receive EI parental benefits at the same time or separately, but once parents start receiving benefits, the options cannot be changed.

Further, eligible two-parent families can also access the EI Parental Sharing Benefit.²⁸ Under the EI Parental Sharing Benefit, parents who agree to share their parental leave may be eligible to receive an additional five or eight weeks of EI parental benefits, depending on whether they choose the standard or extended parental benefits option. This means that, combined, they may be eligible for the following parental benefits:

- a maximum of 40 weeks at 55% of a claimant's average weekly insurable earnings (this is equivalent to 35 weeks of standard parental benefits plus an additional five weeks); or
- a maximum of 69 weeks at 33% of a claimant's average weekly insurable earnings (this is equivalent to 61 weeks of extended parental benefits plus an additional eight weeks).

Any combination of sharing is allowed in order for parents to access the additional weeks of parental benefits, provided that no one parent takes more than 35 or 61 weeks of parental benefits. For example, under the standard parental benefits option, the parents could decide to allocate 20 weeks of benefits for one parent and 20 weeks of benefits for the second parent, or 35 weeks of benefits for one parent and five weeks for the other. Similar considerations apply where parents choose the extended parental benefits option. However, in cases where the second parent opts not to take the additional five or eight weeks of benefits, the current EI parental benefits options of 35 and 61 weeks continue to apply.

When the EI Parental Sharing Benefit was introduced, a Department of Finance Canada backgrounder explained that "[t]his type of benefit has been proven to encourage a more balanced sharing of child care responsibilities that goes well beyond the five-week period,"²⁹ citing the example of Quebec. The backgrounder goes on to state that in 2016, 80% of new fathers in Quebec claimed or intended to claim parental benefits partly because of the paternity leave specifically reserved for them (see Appendix B). By contrast, this same figure was only 12% for the rest of Canada, which does not provide dedicated leave for the second parent. The same publication also revealed that, while women represented 44% of all new EI claimants in 2015–2016, they received 92% of the total EI parental benefits paid during this period.³⁰

It should be noted that, in cases where the child is hospitalized, the period during which EI parental benefits may be claimed is also extended by the number of weeks the child is hospitalized, up to a maximum of 104 weeks. Further, as in the case of EI maternity benefits, parental benefits can also be combined with EI regular benefits for a maximum of 50 weeks, as well as with other special benefits for a maximum of

102 weeks, although the benefit period may be longer if extended parental benefits are claimed.³¹ The rules regarding EI Working While on Claim, as described above, also apply to claimants of EI parental benefits.

4.3 HOW PARENTAL LEAVE AND BENEFITS HAVE CHANGED

Amendments to the Code introduced by the *Budget Implementation Act, 2017, No. 1* increased the duration of parental leave and the aggregate amount of parental leave that may be taken by two parents from 37 to 63 weeks. In addition, the aggregate amount of maternity and parental leaves that may be taken by one or two employees was increased from 52 to 78 weeks. The EI Act was also amended at that time to allow employees a second option when choosing parental benefits (namely, the extended parental benefits option of 61 weeks at a lower benefit rate). As with the changes to maternity leave and benefits mentioned above, these amendments came into force on 3 December 2017.³²

Subsequently, amendments to the Code introduced by the *Budget Implementation Act, 2018, No. 2* increased once again the aggregate amount of parental leave that may be taken by two parents from 63 to 71 weeks, while the maximum amount of leave to be taken by one employee remains at 63 weeks. In addition, the aggregate amount of maternity and parental leaves that may be taken by two parents was increased from 78 to 86 weeks, while the maximum amount of leave to be taken by one employee remains at 78 weeks. The EI Act was also amended at this time to introduce the EI Parental Sharing Benefit, which increases the benefit period to 40 or 69 weeks (depending on the option chosen) where parental benefits are shared.³³ These changes came into force on 17 March 2019.

5 SPECIAL CASES UNDER FEDERAL JURISDICTION

5.1 PARLIAMENTARIANS

The employment of parliamentarians in tenure of office is not included in insurable employment. Consequently, parliamentarians do not pay into the EI program and are excluded from receiving EI benefits, including EI maternity and parental benefits.³⁴

In addition, under the *Parliament of Canada Act*,³⁵ a parliamentarian who is absent for more than 21 sitting days per session is subject to deductions from their rate of pay, except for reasons such as attending to public or official business, service in the Canadian Armed Forces or illness.

The *Budget Implementation Act, 2018, No. 1*, however, amended the *Parliament of Canada Act* by adding new section 59.1 to that Act, which allows the Senate and the House of Commons to make regulations with respect to the attendance of their members, and to resulting pay deductions, where absences are due to pregnancy or the need to care for a newborn or newly adopted child.

Accordingly, a new set of regulations, entitled *House of Commons Members' Sessional Allowance Regulations (maternity and parental arrangements)*, were recommended

by the House of Commons Standing Committee on Procedure and House Affairs on 10 June 2019 and unanimously concurred in by the House of Commons two days later.³⁶

The regulations treat the non-attendance of members by reason of maternity or the need to care for a newborn or newly adopted child as being in attendance when calculating total absences. For pregnant members, the allowed leave period under the regulations starts four weeks prior to the expected date of delivery. For those members caring for a newborn or newly adopted child, the approved leave period begins upon the birth or adoption and ends 12 months after that date.³⁷

5.2 STUDENTS AND POST-DOCTORAL FELLOWS

In order to focus on their research, students and post-doctoral fellows may not be able to participate in the labour market and may therefore be ineligible to receive EI maternity or parental benefits. They may, however, receive funding from one of the three federal granting councils (namely, the Social Sciences and Humanities Research Council, the Natural Sciences and Engineering Research Council, and the Canadian Institutes of Health Research) in the form of 12-month parental leave supplements. Where both parents receive grant funds, each parent must take a portion of the leave for a combined maximum of 12 months.³⁸

The maximum leave duration was increased from six months to 12 months for those on an active paid parental leave on 1 April 2019 or later, as a result of Budget 2019. Budget 2019 announced an investment of \$37.4 million over five years, starting in 2019–2020, along with \$8.6 million per year ongoing, to the federal granting councils, in order to expand parental leave coverage for students and postdoctoral fellows receiving grant funds.³⁹

6 PROTECTIONS RELATED TO OCCUPATIONAL HEALTH AND SAFETY

6.1 THE RIGHT TO “CEASE TO PERFORM JOB” AND MATERNITY-RELATED REASSIGNMENT AND LEAVE

Federal law and some provincial/territorial legislation also provide protections related to occupational health and safety that, in certain circumstances, can lead to a period of paid leave.

An employee under federal jurisdiction may “cease to perform her job” in accordance with Part II of the Code⁴⁰ if she believes that her current job functions may pose a risk to her health or to that of the foetus or child. However, she is required to consult a qualified medical practitioner⁴¹ as soon as possible to establish the nature of the risk and, if applicable, obtain a medical certificate.

The employee will be deemed to continue to hold her original position, which also means that her wages and benefits will not change, for the period during which she does not perform her job. If the medical practitioner confirms that there is a risk,

however, the employee may no longer “cease to perform her job” under this special provision. She must then refer to the provisions of the current collective agreement or Part III of the Code, as the case may be.

Under Part III of the Code,⁴² an employee may request that her job functions be modified or that she be reassigned to another position. However, this request, which may be made from the beginning of the pregnancy to the end of the 24th week following the birth, must be accompanied by a medical certificate establishing the expected duration of the risk and the activities or conditions to avoid.

The employee is entitled to leave with pay at her regular rate of wages while her employer examines her request and until her job functions are modified, she is reassigned, or her employer informs her in writing that accommodation is not reasonably practicable. Where the employer can modify her job functions or reassign her, the employee will be deemed to continue to hold her original position and will continue receiving the wages and benefits attached to that job.

Where the employer is unable to provide accommodation, the employee can take an unpaid leave of absence for the duration of the risk as indicated in the medical certificate. During this time, she may be eligible for some compensation under the current collective agreement, the EI Act or the employer’s private insurance plan.⁴³

Similar to what is available at the federal level, some provincial and territorial legislation provides for an explicit duty to accommodate employees who are expecting a child or who have recently given birth.⁴⁴ Exceptionally, Quebec’s *Act respecting occupational health and safety*⁴⁵ allows employees to not only take a precautionary leave of absence but to also to be paid income replacement benefits where there are workplace-related health risks and the employer is unable to provide accommodation.

Specifically, under Quebec’s Safe Maternity Experience program, a worker on preventive withdrawal is entitled to full remuneration for the first five working days after stopping work and to 90% of her net salary thereafter for the days that she would normally have worked were it not for the health or safety risk, up to a maximum insurable salary. These income replacement benefits are provided by Quebec’s Commission des normes, de l’équité, de la santé et de la sécurité du travail.⁴⁶

6.2 NATIONAL MATERNITY ASSISTANCE PROGRAM

A private member’s bill, Bill C-243, An Act respecting the development of a national maternity assistance program strategy,⁴⁷ was introduced in the House of Commons in 2016. The bill proposed the development and implementation of a national maternity assistance program strategy. The goal of this strategy, whose development was to be informed by consultations, would have been to support expectant and new mothers who are unable to work due to pregnancy and/or childbirth and whose employers are unable to accommodate them by providing reassignment.

Consultations conducted in accordance with Bill C-243 would have assessed the following aspects:

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- the current demand for a national maternity assistance program;
- the adequacy of the current federal/provincial programs for expectant and new mothers;
- the financial costs, the potential social and economic benefits, and the legal, constitutional or jurisdictional implications associated with the implementation of a national maternity assistance program; and
- the different types of workplaces in Canada and the impact of a national maternity assistance program on workplace gender equality.

Bill C-243 was last debated at third reading stage in the Senate on 11 April 2019; however, it is expected to die on the *Order Paper* when the 42nd Parliament is dissolved prior to the 2019 federal election.

7 CONCLUSION

The past few years have seen a series of changes to the federal employee protections surrounding the birth or adoption of a child. While these changes affect employees in federally regulated sectors, which account for approximately 6% of all Canadian workers, those related to EI also have an impact on the rest of the working population, owing to the national scope of the program. Certain measures have also acted as catalysts for change at the provincial and territorial level, as shown in Appendix C.

These recent developments have included extending the EI Working While on Claim provisions to employees claiming maternity benefits, introducing options regarding the length of EI parental benefits, and enacting a new EI Parental Sharing Benefit, along with corresponding amendments to the *Canada Labour Code*. With constant changes in the nature of work and with calls from stakeholders for additions or changes in this area, federal employee protections surrounding the birth or adoption of a child are likely to continue to evolve.

NOTES

1. Employment and Social Development Canada [ESDC], [Executive summary: Employment Insurance Special Benefits online consultations](#).
2. Carolyn McLeod et al., [Time to Attach: An Argument in Favour of EI Attachment Benefits](#), Report prepared for Adopt4life (A4L): Ontario's Adoptive Parents Association and the Adoption Council of Canada (ACC), May 2019.
3. Jennifer Robson, "[Parental Benefits in Canada: Which Way Forward?](#)," *IRPP Study*, No. 63, March 2017.
4. [Canada Labour Code](#) [Code], R.S.C. 1985, c. L-2.

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5. Federally regulated businesses and industries include interprovincial and international services (such as railways, road and air transport, and shipping services), radio and television broadcasting, telephone and cable systems, banks, most federal Crown corporations, and private businesses necessary to the operation of a federal Act. Employees in federally regulated sectors account for approximately 6% of all Canadian workers. See Government of Canada, [Federally Regulated Businesses and Industries](#). Part III of the Code does not apply to federal public service employees. Rather, their rights and responsibilities with regards to maternity and parental leaves are subject to collective agreements established in accordance with the [Federal Public Sector Labour Relations Act](#), S.C. 2003, c. 22, s. 2.
6. Government of Canada, [Maternity-related reassignment and leave, maternity leave and parental leave](#).
7. [Employment Insurance Act](#), S.C. 1996, c. 23.
8. Government of Canada, [Employment Insurance maternity and parental benefits](#).
9. The waiting period was reduced from two weeks to one through amendments to the *Employment Insurance Act* in the *Budget Implementation Act, 2016, No. 1*; the changes came into force on 1 January 2017. See [Budget Implementation Act, 2016, No. 1](#), S.C. 2016, c. 7. See also ESDC, [Background: Employment Insurance waiting period](#).
10. ESDC, "What's included in benefit calculations: If your family income is \$25,921 or less," [EI maternity and parental benefits: How much you could receive](#); and Government of Canada, [More choice for parents](#).

The Canada Child Benefit is a non-taxable monthly payment made to eligible families to help them with the cost of raising children who are under the age of 18. For additional information, see Canada Revenue Agency, [What is the Canada child benefit?](#), *Canada Child Benefit*.
11. Government of Canada, [Supplementing maternity, parental, compassionate care or family caregiver benefits](#).
12. Katherine Marshall, "Employer top-ups," *Perspectives on Labour and Income*, Statistics Canada, February 2010. See also Robson (2017).
13. For additional information about Employment Insurance [EI] benefits, see Government of Canada, [Digest of Benefit Entitlement Principles](#).
14. Government of Quebec, "Becoming a Parent: Québec Parental Insurance Plan," *Services Québec – Citoyens*.
15. Code, s. 206.
16. [Budget Implementation Act, 2018, No. 2](#), S.C. 2018, c. 27.
17. *Ibid.*, s.534(1); Government of Canada, [Order in Council P.C. 2019-0602](#), 31 May 2019; and ESDC, [Labour Program: Current and future legislative and regulatory changes – Summary](#).
18. The qualifying period is the shorter of the 52-week period immediately before the start of the claim, or the period since the start of the last claim. See ESDC, [EI maternity and parental benefits: Eligibility](#).
19. Government of Canada, "[12.3.1 Limits to the number of weeks of special benefits payable](#)," *Digest of Benefit Entitlement Principles Chapter 12 – Section 3*.
20. [Employment Insurance Regulations](#), SOR/96-332, s. 40(5). See also Government of Canada, "[12.3.2 Sickness benefits within the maternity period](#)," *Digest of Benefit Entitlement Principles: Chapter 12 – Section 3*.
21. ESDC, "Miscarriage, termination or stillbirth," [EI maternity and parental benefits: Special circumstances](#).

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22. ESDC, [Employment Insurance – Working While on Claim](#). See also Office of the Superintendent of Financial Institutions Canada, Office of the Chief Actuary, [2019 Actuarial Report on the Employment Insurance Premium Rate](#), p. 12.
23. Government of Canada, *Employment Insurance maternity and parental benefits*.
24. ESDC, *Employment Insurance – Working While on Claim*.
25. Code, s. 206.1.
26. Government of Canada, [Parental leave – 808-IPG-014](#); and Government of Canada, *Maternity-related reassignment and leave, maternity leave and parental leave*.
27. *Budget Implementation Act, 2018, No. 2*, s.534(1); Government of Canada (31 May 2019); and ESDC, *Labour Program: Current and future legislative and regulatory changes – Summary*.
28. Department of Finance Canada, [Backgrounder: Canada’s New Parental Sharing Benefit](#).
29. Ibid.
30. Ibid.
31. Government of Canada, “12.3.1 Limits to the number of weeks of special benefits payable,” *Digest of Benefit Entitlement Principles Chapter 12 – Section 3*.
32. Government of Canada, *Employment Insurance maternity and parental benefits*.
33. Government of Canada, [Parental Sharing Benefit](#).
34. House of Commons, Standing Committee on Procedure and House Affairs [PROC], [Support for Members of Parliament with Young Children](#), Forty-eighth Report, 1st Session, 42nd Parliament, November 2017, p. 4.
35. [Parliament of Canada Act](#), R.S.C. 1985, c. P-1, ss. 57–59.
36. PROC, [Regulations Respecting the Non-Attendance of Members by Reason of Maternity or Care for a New-Born or Newly-Adopted Child](#), Ninety-seventh Report, 1st Session, 42nd Parliament, 10 June 2019. See also House of Commons, [Journals](#), 1st Session, 42nd Parliament, 12 June 2019, p. 5539.
37. PROC (2019).
38. Natural Sciences and Engineering Research Council of Canada, [Tri-agency Research Training Award Holder’s Guide](#).
39. Government of Canada, [Investing in the Middle Class: Budget 2019](#), 19 March 2019, p. 47.
40. Code, s. 132.
41. The term “qualified medical practitioner” will be changed to “health care practitioner” once the relevant provisions from the *Budget Implementation Act, 2018, No. 2*, come into force. These provisions are expected to come into force on 1 September 2019; see *Budget Implementation Act, 2018, No. 2*, s.534(1); Government of Canada (31 May 2019); and ESDC, *Labour Program: Current and future legislative and regulatory changes – Summary*.
42. Code, ss. 204–205.2.
43. For additional information, see Government of Canada, [Pregnant and nursing employees](#); and Government of Canada, *Maternity-related reassignment and leave, maternity leave and parental leave*.

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44. See, for example, Manitoba, [Workplace Safety and Health Regulation](#), Man. Reg. 217/2006, s. 2.5 (CanLII); Newfoundland and Labrador, [Occupational Health and Safety Regulations](#), 2012, N.L.R. 5/12, ss. 42(10) and 42(12)(a) (CanLII); and Nunavut, [Occupational Health and Safety Regulations](#), Nu. Reg. 003-2016, ss. 315 and 345 (CanLII).
45. Quebec, [Act respecting occupational health and safety](#), C.Q.L.R. c. S-2.1, ss. 40–48 (CanLII).
46. Government of Quebec, “[Becoming a Parent: For a Safe Maternity Experience program](#),” *Services Québec – Citoyens*. See also Commission des normes, de l'équité, de la santé et de la sécurité du travail, [Salaire maximum assurable : annuel et hebdomadaire](#). [AVAILABLE IN FRENCH ONLY]
47. [Bill C-243, An Act respecting the development of a national maternity assistance program strategy](#) [short title: National Maternity Assistance Program Strategy Act], 1st Session, 42nd Parliament.

APPENDIX A – EMPLOYMENT INSURANCE MATERNITY AND PARENTAL BENEFIT ENTITLEMENTS

Table A.1 – Employment Insurance Maternity and Parental Benefit Entitlements

Type of Benefit	Maximum Number of Benefit Weeks	Percentage of Income Replacement
Maternity	15 weeks	55%
Parental (standard option)	35 weeks (or 40 weeks if EI Parental Sharing Benefit claimed)	55%
Parental (extended option)	61 weeks (or 69 weeks if EI Parental Sharing Benefit claimed)	33%

Source: Table prepared by the author based on data obtained from Government of Canada, [Employment Insurance maternity and parental benefits](#); and Government of Canada, [Parental Sharing Benefit](#).

APPENDIX B – BENEFIT ENTITLEMENTS UNDER THE QUEBEC PARENTAL INSURANCE PLAN (QPIP)*

Table B.1 – Benefit Entitlements Under the QPIP Basic Plan

Type of Benefit	Maximum Number of Benefit Weeks	Percentage of Income Replacement
Maternity	18 weeks	70%
Paternity ^a	5 weeks	70%
Parental	7 weeks	70%
	25 weeks	55%
	<i>Total: 32 weeks</i>	
Adoption	12 weeks	70%
	25 weeks	55%
	<i>Total: 37 weeks</i>	

Table B.2 – Benefit Entitlements Under the QPIP Special Plan

Type of Benefit	Maximum Number of Benefit Weeks	Percentage of Income Replacement
Maternity	15 weeks	75%
Paternity ^a	3 weeks	75%
Parental	25 weeks	75%
Adoption	28 weeks	75%

Notes: a. Paternity benefits are paid to the new father only and may not be transferred to the mother. In the case of same-sex couples, paternity benefits are payable to the biological father only (where both parents are men) or to the spouse of the woman who gave birth, provided she is registered on the act of birth (where both parents are women). See Government of Quebec, [“Becoming a Parent: Québec Parental Insurance Plan -- Benefits and grants,” Services Québec – Citoyens.](#)

Source: Tables prepared by the author based on information obtained from Government of Quebec, [“Becoming a Parent: Québec Parental Insurance Plan -- Benefits and grants,” Services Québec – Citoyens.](#)

NOTES

- * Quebec Parental Insurance Plan (QPIP) benefits are available to workers who live in Quebec on the start date of the benefit period, even if they work in another province or move out of Quebec after this date. This means that an employee who works in Quebec but lives in another province will not be eligible for QPIP benefits and will need to apply for EI benefits. In addition, employees who are receiving EI benefits when they move to Quebec will not be eligible for QPIP benefits. See Government of Canada, [Quebec Parental Insurance Plan.](#)

APPENDIX C – MATERNITY AND PARENTAL LEAVES BY PROVINCE AND TERRITORY

Table C.1 – Maternity and Parental Leaves by Province and Territory

Jurisdiction	Legislation	Length of Maternity Leave (weeks)	When Maternity Leave May Start (weeks before estimated date of delivery)	Length of Parental Leave (weeks) ^a	Period within which Parental Leave May Be Taken (weeks from birth or adoption) ^b	Maximum Combined Maternity and Parental Leaves (weeks) ^b
British Columbia	Employment Standards Act , R.S.B.C. 1996, c. 113, ss. 50(1), 51(1) and 51(4) (CanLII)	17	13	61 (if maternity leave taken); or 62 (if no maternity leave taken)	Must begin within 78 weeks after the birth or adoption	78
Alberta	Employment Standards Regulation , Alta Reg 14/1997, s. 54.3 (CanLII)	16	13	62	78	Not specified
Saskatchewan	The Saskatchewan Employment Act , S.S. 2013, c. S-15.1, ss. 2-49(1), 2-51(1) and 2-51(2)	19	13	59 (if maternity or adoption leave taken); or 63 (if no maternity or adoption leave taken)	Must be taken in the period that starts 13 weeks before the estimated date of birth or adoption, and ends by 78 weeks after the actual date of birth or adoption	Not specified
Manitoba	The Employment Standards Code , C.C.S.M. c. E110, ss. 54(1), 54(2), 58(1) and 58(3) (CanLII)	17	17	63	Must start by 78 weeks from birth or adoption	Not specified
Ontario	Employment Standards Act, 2000 , S.O. 2000, c. 41, ss. 46(2), 47(1), 48(2) and 49(1) (CanLII)	17	17 (or earlier if actual date of delivery is before this date)	61 (if maternity leave taken); or 63 (if no maternity leave taken)	May start by 78 weeks from birth or adoption	Not specified
Quebec	Act respecting labour standards , C.Q.L.R. c. N-1.1, ss. 81.4, 81.5, 81.10 and 81.11 (CanLII)	18	16	52	70	Not specified
New Brunswick	Employment Standards Act , S.N.B. 1982, c. E-7.2, ss. 43(1), 44.02(2), 44.02(8) and 44.02(12.2) (CanLII)	17	13	62	78	78
Prince Edward Island	Employment Standards Act , R.S.P.E.I. 1988, c. E-6.2, ss. 20(1), 22(1), 22(2.1) and 22(3) (CanLII)	17	13	62	52	78

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Jurisdiction	Legislation	Length of Maternity Leave (weeks)	When Maternity Leave May Start (weeks before estimated date of delivery)	Length of Parental Leave (weeks) ^a	Period within which Parental Leave May Be Taken (weeks from birth or adoption) ^b	Maximum Combined Maternity and Parental Leaves (weeks) ^b
Nova Scotia	Labour Standards Code , R.S.N.S. 1989, c. 246, ss. 59(1), 59(2) and 59B(1)–59B(4)	16	16	61 (if maternity leave taken); or 77 (if no maternity leave taken)	78	77
Newfoundland and Labrador	Labour Standards Act , R.S.N.L. 1990, c. L-2, ss. 40(2), 42(1), 42(2), 43.3(2) and 43.5 (CanLII)	17	17	61	May start by 35 weeks from birth or adoption	Not specified
Yukon	Employment Standards Act , R.S.Y. 2002, c. 72, ss. 36(2), 37(1), 38(1) and 38(3)	17	Not specified (employer may, however, require the employee to begin leave within the period of six weeks before expected date of delivery if the pregnancy interferes with the employee's work)	63	78	Not specified
Northwest Territories	Employment Standards Act , S.N.W.T. 2007, c. 13, ss. 26(1), 28(1), 28(2) and 34	17	17	37	52	52
Nunavut	Labour Standards Act , R.S.N.W.T. (Nu) 1988, c. L-1, ss. 31(2), 34(1), 34(4) and 35.1 (CanLII)	17	17	37	52	52

Notes: a. Unlike federal provisions, which provide parents with a pool of parental leave they can choose to share between them, most provinces and territories allow both parents to each take the full parental leave entitlement. For example, in British Columbia, where parental leave is provided for a maximum of 62 weeks, both parents can take one full period of parental leave. See Government of British Columbia, [Leaves of Absence](#); and Andrea Doucet et al., “Canada,” [14th International Review of Leave Policies and Related Research 2018](#), September 2018, p. 98, note 5.

Like the federal jurisdiction, most provinces and territories include protections for adoptive parents within parental leave provisions. The exceptions are Saskatchewan and Newfoundland and Labrador, which provide for a separate adoption leave. This adoption leave is in addition to any entitlement to parental leave. For example, in Newfoundland and Labrador, an employee may be entitled to 17 weeks of adoption leave plus an additional 61 weeks of parental leave. In both provinces, the length of the adoption leave corresponds with that of the maternity leave. See [Labour Standards Act](#), R.S.N.L. 1990, c L-2, ss. 43 and 43.2; and [The Saskatchewan Employment Act](#), S.S. 2013, c. S-15.1, ss. 2-50 and 2-51(1)(a).

b. The period during which parental leave may be taken, as outlined in the table above, generally applies to employees who do not take maternity leave. Typically, employees that take both leaves must take their parental leave immediately following the last day of their maternity leave. For example, in Ontario, an employee who has taken a pregnancy leave is required to begin her parental leave when her pregnancy leave ends, unless the child has not yet come into her custody, care and control. [Employment Standards Act](#), 2000, S.O. 2000, c. 41, s. 48(3).

Source: Table prepared by the author using information obtained from the relevant provincial/territorial legislation.