

LABOUR AND EMPLOYMENT NEWSLETTER

July 2, 2004

A publication of Miller
Thomson LLP Labour and
Employment Practice
Group

FAMILY MEDICAL LEAVE NOW AVAILABLE FOR ONTARIO EMPLOYEES

Michael Conradi
Tel. 416.595.8550
mconradi@millerthomson.ca

In our April 21, 2004 newsletter (accessible on our website at www.millerthomson.ca), we discussed the provincial governments proposed amendments to the *Employment Standards Act, 2000* that would allow Ontario employees up to 8 weeks of leave to care for seriously ill family members. The amendments received Royal Assent on June 29, 2004 and are now in force.

Generally, all employees are entitled to take care of specified family members that are sick or dying. Family members include:

- the employee's spouse (includes common law or same sex spouse),
- the employee's parent, step-parent or foster parent,
- a child, step-child or foster child of the employee or of the employee's spouse, or
- any other person designated as a family member in the regulations.

The provision applies if the family member suffers from a serious medical condition with a significant risk of death occurring within a period of 26 weeks or such shorter period as may be prescribed by regulation. If requested, the employee must provide a certificate from a qualified medical practitioner stating that the family member has a serious medical condition with a significant risk of death within 26 weeks from the day the certificate is issued.

The leave commences no earlier than the first day of the first week of the 26 week period specified on the certificate. The leave ends no later than the last day of the week when the family member dies, or when the 26 week period has expired, whichever occurs earlier. An employee may only take a leave in periods of entire weeks; no partial week leaves are permitted.

If the family member does not die during the 26 week period, the employee will be entitled to another 8 week leave of absence. Further, employees will not be required to work a specified period of time before qualifying for the leave.

While an employee is on leave, the employer would have to continue to pay its share of the premiums to certain benefit plans (i.e., pension plans, life and extended health insurance plans, accidental death plans and dental plans) that were offered before the leave.

In light of the above amendments, employers should review existing policies and/or collective agreements, and consider establishing a notification and tracking procedure.

ABOUT THE AUTHOR:

Michael Conradi is a member of our Labour and Employment Group. He provides legal services and advice to a wide range of clients in the private and public sectors.

Our Labour and Employment Practice Group is dedicated to providing comprehensive and integrated legal services, and advises management in all aspects of labour relations and employment law. For more information about our Group, visit our website at www.millerthomson.com or contact:

*Miller Thomson LLP
2500 – 20 Queen Street West
Toronto, ON M5H 3S1*

*416.595.8500
416.595.8695 (fax)*

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