

Reservist Leave

Frequently Asked Questions

Q: When was the Yukon Employment Standards Act amended to include Reservist Leave?

The amendment was made in May 2009.

Q: Why was the Yukon Employment Standards Act amended?

In April 2008 the Canadian Government passed legislation to provide members of Canada's Reserve Force with protection of their civilian jobs under the [Canada Labour Code](#) and the [Public Service Employment Act](#).

In order to ensure that Yukon Reservists are entitled to the same job protection as the federal acts provide, Yukon Government amended Yukon's Employment Standards Act to mirror the Canada Labour Code.

Q: How many people are affected by this amendment?

While there are very few Reservists in Yukon, some 220 Rangers would benefit from this leave amendment.

Q: What would employers be required to do?

Employers would be required to provide job protection to Reservists deployed for overseas missions, including pre-and post-deployment duties related to the operation, and to both Reservists and Rangers deployed for domestic emergencies, and for up to 15 days of annual training.

While the employee is on leave, employers are not required to continue wages, benefits or pension contributions.

Q: Are First Nations employees who are Reservists or Rangers covered?

Employees of First Nations are already provided for by changes made this spring to the Canada Labour Code.

Employees of First Nation Corporations are now also covered by this amendment to the Yukon Employment Standards Act.

Q: In what circumstances could Reservist leave be taken?

Yukon Reservists and Rangers would be allowed to take a leave of absence without pay from their civilian employment to take part in annual training or certain operations in Canada.

Reservists would be allowed to take a leave of absence without pay from their civilian employment to take part in operations abroad as designated by the Minister of National Defence and the National Defence Act.

Q: What would be required to qualify for Reservist leave?

To qualify for this leave, Reservists would have to be employed continuously for six months with their employer. They would need to provide their employer with four weeks notice, unless there was a valid reason for not doing so, in which case the employer would be notified of the leave as soon as practical. In addition, the employee would need to advise the employer of the duration of the leave. Notice must be given in writing, (www.cflc.forces.gc.ca) unless there was a valid reason to provide notice through other means.

In addition, if the employer requests proof that the Reservist is entitled to the leave, the reservist would need to provide the employer with a document approved by the Chief of Defence Staff or, if no such document exists, a document from the Reservist's Commanding Officer. Such proof would need to be provided within three weeks after the leave starts, unless there was a valid reason why this could not be done.

Q: Could an employee be exempted from the right to take Reservist leave?

The Minister responsible for the administration of this Act may have to decide that an employee is not entitled to Reservist leave if taking such leave would adversely affect public health or safety, or would cause undue hardship for the employer. Further, exemptions could be spelled out in the future by regulation.

Q: Would the leave have a maximum duration?

Up to 15 days of leave could be taken for annual training. There would be no specified time limit for leave while a Reservist is involved in a designated operation or is called for service.

Q: Could an employee extend or shorten the leave period after it started?

Yes. To do so, the employee would need to notify the employer of any change to the original length of leave to ensure that the employer can take the necessary steps to reintegrate the employee and to maintain operations until employee returns.

If the leave was to be shortened, notice must be given at least four weeks before the new day on which the leave is to end, unless the employee has a valid reason not to do so.

Likewise, if the leave were to be extended, notice must be given at least four weeks before the day on which the leave was previously scheduled to end, unless the employee has a valid reason not to do so.

Q: Would the leave be extended if a Reservist was injured while on duty?

Leave may be extended if the employee needs to receive treatment, recover undergo rehabilitation due to a physical or mental health problem resulting from service while on Reservist leave.

Q: Would the employer be required to continue wage payments?

No. There would be no obligation to provide for a paid leave of absence.

Q: Would the seniority of the employee continue to accumulate during this leave?

Yes. The employee would continue to accumulate seniority during the absence.

Q: Would the employer be required to continue its contributions to pension, health, disability and other benefits plans while the employee is on leave?

The employer would not be required to make contributions to the employee's pension or benefits plans during the leave period.

Q: Could an employee postpone a vacation while on Reservist leave?

Yes. Employees could decide to postpone their annual vacation until their return to work.

Q: When would the employer need to reinstate the employee?

Normally, the employee would be reinstated immediately following the end of the leave period.

If the employee did not specify the duration of leave before it started and gave the employer less than the four weeks notice of the leave's end date, the employer could delay the employee's return to work by up to four weeks after receiving the notice. The employer would need to inform the employee of any such delay. Any waiting period before returning to work would be considered as part of the Reservists leave.

Q: In what position would the employee be reinstated after the leave?

The employee would be reinstated in the position held before the leave started. If there was a valid reason why this could not be done, the employee would be given a comparable position with the same wages and benefits, and in the same location.

If the employee was no longer able to perform the functions of the original position, or those of a comparable position, the employer may assign the employee to a different position with different terms and conditions of employment.

Q: Could an employee ever receive lower pay or benefits upon returning to work?

Yes. If, during a leave period, the wages and benefits of a group of employees were reduced as a part of a reorganization plan, an employee who is reinstated in that group would receive the same wages and benefits that the employee would have received if she or he had been at work during the reorganization. Likewise, if wages and benefits for the employee's group were increased during leave, the employee would be entitled to the increased wages and benefits upon returning to work.

The employer must inform the employee of any change to wages and benefits resulting from reorganization as soon as practicable, by sending a notice to the employee's last known address.

Q: Could an employer dismiss or lay off an employee because the employee is a Reservist or because the employee has taken or intends to take Reservist leave?

No. An employer would not be permitted to dismiss, suspend, lay off, demote or employee because the employee is a member of the Reserve Force, has taken Reservist leave, or intends to take Reservist leave. The employer would also not be permitted to take these elements into account in any promotion or training decisions. In addition, employers would be prohibited from refusing to hire a person because he or she is a member of the Reserve Force.

Q: Would the employer still be obliged to grant Reservist leave when a collective agreement does not provide for it?

Yes.

Further information may be found at the [Canadian Forces Liaison Committee](#).