



BILL NO. 40

Government Bill

*1st Session, 61st General Assembly
Nova Scotia
58 Elizabeth II, 2009*

**An Act to Amend Chapter 246
of the Revised Statutes, 1989,
the Labour Standards Code,
Respecting a Protected Emergency Leave**

CHAPTER 18
ACTS OF 2009

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 5, 2009**

The Honourable Marilyn More
Minister of Labour and Workforce Development

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 246
of the Revised Statutes, 1989,
the Labour Standards Code,
Respecting a Protected Emergency Leave**

Be it enacted by the Governor and Assembly as follows:

1 Section 7 of Chapter 246 of the Revised Statutes, 1989, the *Labour Standards Code*, as amended by Chapter 14 of the Acts of 1991, Chapter 4 of the Acts of 2003 (Second Session), Chapter 10 of the Acts of 2006 and Chapter 13 of the Acts of 2006, is further amended by adding immediately after clause (bh) the following clause:

(bi) prescribing a circumstance for the purpose of subclause (v) of the definition of “emergency” in clause (b) of subsection (1) of Section 60I;

2 Chapter 246 is further amended by adding immediately after Section 60H the following heading and Section:

EMERGENCY LEAVE

60I (1) In this Section,

(a) “common-law partner” means a “common-law partner” as defined in Section 60E;

(b) “emergency” means

(i) an emergency declared under the *Emergency Management Act* that prevents the employee from performing the employee’s work duties,

(ii) a direction or order of a medical officer under the *Health Protection Act* that prevents the employee from performing the employee’s work duties,

(iii) a public health emergency declared by the Minister under Section 53 of the *Health Protection Act* that prevents the employee from performing the employee’s work duties,

(iv) an emergency declared under Part 1, Part 2 or Part 3 of the *Emergencies Act* (Canada) that prevents the employee from performing the employee’s work duties, or

(v) such other circumstances as are prescribed in the regulations;

(c) “family member”, in relation to an employee, means a family member as defined in Section 60E.

(2) Notwithstanding clause (b) of subsection (1), an emergency includes a circumstance under subclause (i), (ii), (iii), (iv) or (v) of clause (b) that applies to a family member of an employee if

(a) the declaration, direction, order or other prescribed circumstance directly applies to a family member of the employee;

(b) the declaration, direction, order or other prescribed circumstance results in a situation where the family member of the employee requires care or assistance;

(c) the employee is the only person reasonably able under the circumstances to provide the family member with the required care or assistance; and

(d) providing the required care or assistance to the family member has the effect of preventing the employee from performing the employee's work duties.

(3) An employee is entitled to an unpaid leave of absence for such time as the employee cannot perform the duties of the employee's position because of the emergency.

(4) An employee shall give the employer as much notice as reasonably practicable of the employee's intention to take an emergency leave or, where required to leave before notice can be provided, the employee shall advise the employer of the emergency leave as soon as possible after the leave begins.

(5) An employee who takes a leave under this Section shall provide to the employer, where the employer so requests, evidence that is reasonable in the circumstances that the employee is entitled to the leave and such evidence must be provided within a time that is reasonable in the circumstances.

(6) A leave under this Section continues for as long as the emergency continues and the emergency prevents the employee from performing the employee's work duties but the entitlement ends on the day the emergency is terminated or the emergency no longer prevents the employee from performing the employee's work duties.

(7) Where an emergency as defined in clause (b) of subsection (1) is made retroactive under subsection (3) of Section 25 of the *Emergency Management Act* or under subsection (2), an employee who does not perform the duties of the employee's position because of the declared emergency is deemed to have been on leave beginning on the first day that the employee did not perform the duties of the position on or after the date to which the declared emergency was made retroactive.

(8) Sections 59F to 60 apply *mutatis mutandis* to an employee who takes a leave of absence pursuant to this Section.
