



# **BILL NO. 29**

*Government Bill*

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*2nd Session, 63rd General Assembly  
Nova Scotia  
67 Elizabeth II, 2018*

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## **An Act to Amend Chapter 246 of the Revised Statutes, 1989, the Labour Standards Code**

CHAPTER 36  
ACTS OF 2018

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR  
OCTOBER 11, 2018**

The Honourable Labi Kousoulis  
*Minister of Labour and Advanced Education*

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*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**

Be it enacted by the Governor and Assembly as follows:

**1 Section 2 of Chapter 246 of the Revised Statutes, 1989, the *Labour Standards Code*, as amended by Chapter 14 of the Acts of 1991, Chapter 7 of the Acts of 2003 (Second Session), Chapter 10 of the Acts of 2006, Chapter 37 of the Acts of 2010, Chapter 19 of the Acts of 2011 and Chapter 11 of the Acts of 2016, is further amended by**

**(a) adding immediately after clause (aa) the following clauses:**

(ab) “critically ill adult” means a critically ill adult as defined in the regulations, as amended from time to time, made pursuant to the *Employment Insurance Act* (Canada);

(ac) “critically ill child” means a critically ill child as defined in the regulations, as amended from time to time, made pursuant to the *Employment Insurance Act* (Canada);

**and**

**(b) adding immediately after clause (q) the following clause:**

(qa) “spouse” includes two persons who are cohabiting in a conjugal relationship with each other, and have done so continuously for a period of at least one year;

**2 Section 7 of Chapter 246, as amended by Chapter 14 of the Acts of 1991, Chapter 4 of the Acts of 2003 (Second Session), Chapters 10 and 13 of the Acts of 2006, Chapter 18 of the Acts of 2009, Chapter 37 of the Acts of 2010, Chapter 19 of the Acts of 2011, Chapter 11 of the Acts of 2013, Chapter 11 of the Acts of 2016 and Chapter 13 of the Acts of 2018, is further amended by**

**(a) relettering clause (ba) as clause (bab);**

**(b) adding immediately after clause (b) the following clauses:**

(ba) prescribe a period of employment of less than one year for the purpose of establishing entitlement to a pregnancy leave pursuant to Section 59;

(baa) prescribe a period of employment of less than one year for the purpose of establishing entitlement to a pregnancy leave as required by an employer pursuant to Section 59A;

**(c) adding immediately after clause (bab) the following clause:**

(bac) prescribe a period of employment of less than one year for the purpose of establishing entitlement to a parental leave pursuant to Section 59B;

**(d) striking out clause (bd) and substituting the following clause:**

(bd) defining “family member” for the purpose of Sections 60E and 60L to 60SG;

**and**

**(e) striking out clause (bj) and substituting the following clause:**

(bj) prescribe classes of persons for the purpose of subclause (iv) of the definition of “family member” in clause (c) of subsection (1) of Section 60I;

**3 Subsection 58A(1) of Chapter 246, as enacted by Chapter 13 of the Acts of 2018, is amended by adding “, 60SB, 60SE” immediately after “60O” in the second line.**

**4 (1) Subsection 58B(1) of Chapter 246, as enacted by Chapter 13 of the Acts of 2018, is amended by adding “, 60SB, 60SE” immediately after “60O” in the third line.**

**(2) Subsection 58B(2) of Chapter 246, as enacted by Chapter 13 of the Acts of 2018, is amended by adding “, 60SB, 60SE” immediately after “60O” in the fourth line.**

**5 Section 58D of Chapter 246, as enacted by Chapter 13 of the Acts of 2018, is amended by adding “, 60SB, 60SE” immediately after “60O” in the second line.**

**6 Subsection 58E(1) of Chapter 246, as enacted by Chapter 13 of the Acts of 2018, is amended by adding “, 60SB, 60SE” immediately after “60O” in the third line.**

**7 Clause 58F(1)(a) of Chapter 246, as enacted by Chapter 13 of the Acts of 2018, is amended by adding “, 60SB, 60SE” immediately after “60O” in the fourth line.**

**8 (1) Subsection 59(1) of Chapter 246, as enacted by Chapter 14 of the Acts of 1991, is amended by**

**(a) adding “, or such shorter period as may be prescribed by the regulations” immediately after “year” in the third line; and**

**(b) striking out “seventeen” in the fourth line and substituting “sixteen”.**

**(2) Clause 59(3)(b) of Chapter 246, as enacted by Chapter 14 of the Acts of 1991, is amended by striking out “seventeen” in the first line and substituting “sixteen”.**

**9 Subsection 59A(1) of Chapter 246, as enacted by Chapter 14 of the Acts of 1991, is amended by adding “, or such shorter period as may be prescribed by the regulations” immediately after “year” in the fourth line.**

**10 (1) Subsection 59B(1) of Chapter 246, as enacted by Chapter 14 of the Acts of 1991 and amended by Chapter 35 of the Acts of 2000, is further amended by**

**(a) adding “, or such shorter period as may be prescribed by the regulations” immediately after “year” in the second line; and**

(b) striking out “fifty-two” in the eighth line and substituting “seventy-seven”.

(2) Clause 59B(2)(b) of Chapter 246, as enacted by Chapter 14 of the Acts of 1991 and amended by Chapter 35 of the Acts of 2000, is further amended by striking out “thirty-five” in the first line and substituting “sixty-one”.

(3) Clause 59B(3)(b) of Chapter 246, as enacted by Chapter 35 of the Acts of 2000, is amended by striking out “fifty-two weeks” in the first line and substituting “eighteen months”.

(4) Subsection 59B(4) of Chapter 246, as enacted by Chapter 35 of the Acts of 2000, is amended by striking out “fifty-two” in the second line and substituting “seventy-seven”.

**11 Subsection 60E(1) of Chapter 246, as enacted by Chapter 4 of the Acts of 2003 (Second Session), is amended by**

(a) striking out clause (a); and

(b) striking out clause (b) and substituting the following clause:

(b) “family member” in relation to an employee, means a family member as defined in the regulations;

**12 Chapter 246 is further amended by adding immediately after Section 60E the following Section:**

60EA (1) Where an employee who takes a leave to provide care and support to a person pursuant to Section 60E ceases to provide care or support during a week of leave,

(a) the employee’s entitlement to leave continues until the end of the week; and

(b) the employee may return to work during the week only if the employer agrees, whether in writing or not.

(2) Where an employee returns to work under clause (b) of subsection (1), the week counts as an entire week for the purpose of any provision in Section 60E that limits the entitlement to leave to a certain number of weeks.

**13 Subsection 60I(1) of Chapter 246, as enacted by Chapter 19 of the Acts of 2009, is amended by**

(a) striking out clause (a); and

(b) striking out clause (c) and substituting the following clause:

(c) “family member”, in relation to an employee, means

(i) a spouse of the employee,

(ii) a child of the employee or of the employee’s spouse,

- (iii) a parent of the employee or a spouse of the parent, and
- (iv) any other person who is a member of a class of persons prescribed in the regulations;

**14 Clauses 60K(1)(a) and (b) of Chapter 246 are repealed.**

**15 Subsection 60L(1) of Chapter 246 is repealed and the following subsection substituted:**

(1) This Section and Sections 60M to 60S apply to an employee who is a family member, as defined in the regulations, of a critically ill child.

**16 (1) Subsection 60Q(1) of Chapter 246, as enacted by Chapter 11 of the Acts of 2013, is amended by striking out “60E,” in the second line.**

**(2) Subsection 60Q(2) of Chapter 246, as enacted by Chapter 11 of the Acts of 2013, is amended by striking out “60E,” in the third line.**

**17 Chapter 246 is further amended by adding immediately after Section 60S the following heading and Sections:**

CRITICALLY ILL ADULT CARE LEAVE

60SA In Sections 60SB to 60SG,

- (a) “family member” in relation to an employee, means a family member as defined in the regulations;
- (b) “week” means a week as defined in Section 60E.

60SB (1) This Section and Sections 60SC to 60SG apply to an employee who is a family member of a critically ill adult.

(2) An employee who has been employed by an employer for a period of at least three months is entitled to an unpaid leave of absence of up to sixteen weeks to provide care or support to the critically ill adult if a legally qualified medical practitioner issues a certificate

- (a) stating that the adult is a critically ill adult and requires the care or support of the employee; and
- (b) setting out the period during which the adult requires the care or support.

(3) An employee shall advise his or her employer in writing as soon as possible of any intention to take a leave of absence under this Section and shall provide the employer with a written plan that indicates the weeks in which the employee will take the leave.

(4) Where an employee must begin a leave under this Section before advising the employer pursuant to subsection (3), the employee shall so advise the employer as soon as possible.

(5) Where requested in writing by the employer, the employee shall provide the employer with a copy of the certificate referred to in subsection (2).

(6) A leave of absence under this Section may only be taken in periods of not less than one week's duration, not exceeding in total the number of weeks to which the employee is entitled.

60SC (1) The leave of absence referred to in Section 60SB may only be taken during the fifty-two week period that begins on the first day of the week in which the adult with respect to whom the certificate was issued became critically ill.

(2) The leave of absence referred to in Section 60SB ends with the last day of the week in which any of the following occurs:

- (a) subject to subsection (2) of Section 60SD, the adult dies;
- (b) the number of weeks in the period specified in the certificate has been taken, if the certificate sets out a period of less than sixteen weeks;
- (c) a sixteen week leave has been taken.

60SD (1) Where more than one of the employee's adult family members is critically ill as a result of the same event and the period specified in any certificate described in subsection (2) of Section 60SB that was issued with respect to any of the critically ill adults is fifty-two weeks or longer, the leave ends no later than the last day of the last week of the fifty-two week period that begins on the first day of the week in which the first of the adults with respect to whom a certificate was issued became critically ill.

(2) Clause (a) of subsection (2) of Section 60SC does not apply if more than one of the employee's adult family members is critically ill as a result of the same event, unless all of the adults die while the employee is on leave, in which case the employee's entitlement to be on leave ends at the end of the last week in which the last adult dies.

60SE (1) Where more than one of the employee's adult family members is critically ill as a result of the same event, the employee is not entitled to take a leave for a longer period than would otherwise apply under subsection (2) of Section 60SB or clause (b) of subsection (2) of Section 60SC.

(2) Where one or more adults with respect to whom an employee has taken a leave under Section 60SB remain critically ill while the employee is on leave or after the employee returns to work, the employee is entitled to take an extension of the leave or a new leave if

- (a) a legally qualified medical health practitioner issues an additional certificate described in subsection (2) of Section 60SB for the adult or adults that sets out a different period during which the adult or adults require care or support;
- (b) the total amount of leave taken in the leave or combined leaves, as the case may be, does not exceed sixteen weeks; and

(c) the leave or combined leaves end no later than the last day of the period described in subsection (1) of Section 60SC or subsection (1) of Section 60SD, as the case may be.

(3) Where one or more of the employee's adult family members with respect to whom an employee has taken a leave under Section 60SB remain critically ill after the fifty-two week period described in subsection (1) of Section 60SC or subsection (1) of Section 60SD, as the case may be, expires, the employee is entitled to take another unpaid leave beginning the first day of the week in which the additional certificate is issued, and Sections 60SB to 60SD and Sections 60SF and 60SG apply *mutatis mutandis* to the new leave.

60SF (1) Unless the employee and employer agree otherwise, an employee may end a leave earlier than the expiry of sixteen weeks by giving the employer written notice of at least fourteen days before the employee wishes to end the leave.

(2) An employee may take a leave at a time other than that indicated in the plan provided under subsection (3) of Section 60SB if the change to the time of the leave meets the requirements of Sections 60SB to 60SG and the employee

(a) requests permission to do so from the employer in writing and the employer grants permission in writing; or

(b) provides the employer with such written notice as is reasonable in the circumstances.

60SG (1) Where an employee who takes a leave to provide care and support to a person pursuant to Section 60SB or 60SE ceases to provide care or support during a week of leave,

(a) the employee's entitlement to leave continues until the end of the week; and

(b) the employee may return to work during the week only if the employer agrees, whether in writing or not.

(2) Where an employee returns to work under clause (b) of subsection (1), the week counts as an entire week for the purpose of any provision in Section 60SB or 60SE that limits the entitlement to leave to a certain number of weeks.

60SH Sections 59F to 60 apply *mutatis mutandis* to an employee who takes a leave of absence pursuant to Section 60SB or 60SE.

60SI An employee's entitlement to leave under Section 60SB or 60SE is in addition to any entitlement to leave under Section 60E, 60U, 60V or 60X.

**18 Section 60T of Chapter 246, as enacted by Chapter 11 of the Acts of 2013, is amended by**

**(a) striking out clause (b); and**

**(b) striking out "or common-law partner" in the first line of subclause (d)(i).**

**19 Section 5 of Chapter 13 of the Acts of 2018, is amended by**

**(a) adding "(1)" immediately after the Section number; and**



**(b) adding the following subsection:**

- (2) Sections 60SH and 60SI of Chapter 246 are repealed.

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