

CHANGES TO EMPLOYMENT INSURANCE

OVERVIEW

The [2017 Federal budget](#) introduced significant changes to Employment Insurance (EI) benefits, in order to enhance workers' ability to take time away from work due to specific life events, such as caring for critically ill relatives or caring for children.

The reforms, scheduled to take effect on December 3, 2017, promise to improve flexibility for employees, which will be welcomed by employers and workers alike. But the reforms also pose challenges for employers: workflow management may become more difficult, and there may be complications where federal and provincial standards are not aligned.

In order to ensure compliance, employers and plan sponsors must undertake a thorough review of their policies and practices with respect to leaves of absence, and consider possible implications on their benefits packages and pension plans.

THE CHANGES

The changes fall into three distinct categories:

- **EI Family Medical Leave Benefits:** These include a new Adult Caregiving Benefit, expansion of eligibility for Critically Ill Children Benefits, and new regulations surrounding who can certify the need to provide Compassionate Care Benefits.
- **EI Maternity/Parental Benefits:** Both Maternity and Parental Benefits are being expanded.

Once the changes are in effect, workers can take maternity leave up to 12 weeks before the expected delivery. Parental Benefits – which may be shared between parents will now have an option to be extended to 61 weeks, albeit at a lower weekly benefit.

- **Canada Labour Code Changes:** The Canada Labour Code was amended to align the laws governing maternity/parental leave with the new EI benefits. The new law also includes a new unpaid leave of absence, in order to care for or support a designated family member.

CONSIDERATIONS FOR EMPLOYERS AND PLAN SPONSORS

Leaves of Absence Policies

It is important to note that changes to EI benefits are separate and distinct from employer minimum legislative requirements with respect to leaves of absence.

For federally regulated employers, the changes to EI are aligned with the Federal Canada Labour Code. We expect other provinces to follow suit. In the meantime, provincially-regulated employers must consider any policy changes that may be necessary regarding the treatment of protected leaves where extended EI benefits are available.

Top-Up Plans

Human Rights legislation requires, at a minimum, that benefits for the health-related portion of a pregnancy leave be at least as generous any sick leave/ short-term disability plan in place.

In order to ensure that EI is first-payer for benefits, many employers use an EI Top-Up plan to pay the difference between the EI benefit and the applicable sick leave/ short-term disability benefit level.

With a new option to take EI parental benefits at a lower weekly benefit for a longer period, employers using these plans are at risk of paying out higher rates than anticipated. Employers using EI Top-Up Plans should review their benefits promise.

With the Quebec Parental Insurance Plan also offering a longer-period, lower-benefit parental leave option, national employers ought to consider a consistent approach.

Pension Plan Considerations

Registered pension plans may be affected by these changes. Possible impacts include the eligible periods of parenting under the Income Tax Act.

Although these changes grant workers more flexibility to deal with life events, businesses will have to work to ensure compliance. Employers must act now to ensure that their benefits promise, and leave of absence policies, are ready to accommodate these new demands.

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