

Blakes Bulletin

Labour & Employment

Reservist Leave in Alberta

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Alberta joins the federal government and all of the other provinces in providing job-protected leave for military reservists. The *Employment Standards (Reservist Leave) Amendment Act, 2009*, S.A. 2009, c. 4 (the Act) will come into force on June 30, 2009. The Act amends the Alberta *Employment Standards Code* (the Code), by providing leave provisions for members of the reserve force of the Canadian Forces, consisting of officers and non-commissioned members who are enrolled for other than continuing, full-time military service when not on active service.

Similar to maternity and parental leave provisions in the Code, reservist leave is unpaid, job-protected leave. Under the amended Code, an employee who has completed at least 26 consecutive weeks of employment with an employer, and is a reservist, is entitled to reservist leave without pay to take part in either:

- (a) deployment to a Canadian Forces operation outside Canada;
- (b) deployment to a Canadian Forces operation inside Canada to provide assistance in dealing with an emergency or with its aftermath;
- (c) annual training, for an amount up to 20 days in a calendar year; or
- (d) an operation or activity set out in the regulations.

Unless the regulation or Act provides otherwise, an employee is entitled to reservist leave for as long as one of the four activities mentioned above applies to the employee.

NOTICE TO EMPLOYERS

Employees intending to take reservist leave must give their employer at least four weeks' written notice specifying the start date and an estimated or actual date of return. If this notice requirement cannot be complied with due to urgent circumstances, the employee must give notice as soon as is reasonable and practicable.

Also, employees on reservist leave must give their employers notice of when they will be returning to work. If an employee is on reservist leave for longer than four weeks, he or she must give four weeks' notice, failing which the employer may postpone the employee's return. If an employee is on reservist leave for four weeks or less, he or she must give notice as soon as possible before resuming work.

On the employer's request, the employee must provide documents from his or her commanding officer specifying that the employee is taking or has taken part in one of the listed activities above, the day that the leave is to start or started, and the estimated or actual length of the leave.

TERMINATION AND RESUMPTION OF EMPLOYMENT

An employer is restricted from terminating an employee on reservist leave. An employee must be reinstated to the same or comparable position upon his or her return to work following reservist leave. If an employer suspends or discontinues its business during the employee's reservist leave, but the business subsequently resumes within 52 weeks following the end of the employee's leave, the employer must reinstate the employee to the same position the employee occupied prior to the leave or provide alternate work in accordance with the seniority system in place at the time the employee's leave started.

VACATION

If an employee is on reservist leave on the day by which his or her vacation must be used, any unused vacation must be used immediately after the leave expires or, if the employee and employer agree, on a later date.

It should be noted that several sections in the Code that make reference to maternity or parental leave are amended to include references to reservist leave.

For more information with respect to compliance with your obligations regarding reservist leave, please contact a member of Blakes Labour & Employment Group.

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