

The Work Equity Canada Index

*Where the Provinces
and Territories
Stand*

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About the Institute for Health and Social Policy

The Institute for Health and Social Policy at McGill University was created to conduct and support world class research into the impact of social conditions on health and to lead programs designed to translate research findings into policies and programs on national and global scales that change the social conditions under which the worst off live.

About WECanada

The Work, Family, and Equity Index (WFEI) has been developed by the Project on Global Working Families to measure governmental performance around the world in meeting the needs of working families.

The indicators in the WFEI were selected to provide an evidence-based assessment of policies crucial to the needs of working families in general and low- and middle-income working families in particular. In compiling the WFEI, data were gathered on labour practices from 180 countries, representing a wide range of political, social and economic systems. These include maternity, paternity and parental leave; infant and toddler care; breastfeeding breaks at work; paid leave to meet children's health and educational needs; maximum hour limits, overtime limits, annual leave, mandatory day of rest and other standards; paid leave and flexibility for health care support for adult family members, family events and other extraordinary circumstances; and paid leave and flexibility for workers' own health needs. WECan (Work Equity Canada) provides an in-depth look at Canada, taking into account the legislative variations across provinces and territories. It is one of a series of country-specific indexes based on the Work, Family, and Equity Index (WFEI).

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How Does Canada Measure up?

Areas Where Canada is Doing Well

- Canada performs well in having policies that guarantee paid leave to care for dependants with serious illnesses. The federal government guarantees Canadian workers six weeks of paid leave over a period of 26 weeks to provide care or support to gravely ill family members at risk of dying. This leave is paid at 55% of workers' regular insured earnings and can be split among family members. Out of 180 countries studied, only 39 countries guarantee such leave with pay, and among them 16 out of 30 OECD members make this guarantee.

Areas Where Canada Lags Behind

Leave Around Childbearing

- Out of 176 countries studied, 106 provide mothers with complete wage replacement during maternity leave. Although in a number of countries many women work in the informal sector, where these government guarantees do not always apply, the fact remains that most Canadian women are only guaranteed 55 percent of their insurable income during maternity leave. Women in Quebec fare a bit better, receiving 70 to 75 percent of their insurable income during maternity leave.

Breastfeeding Breaks

- At least 114 countries guarantee new mothers breastfeeding breaks. In Canada discrimination on the basis of sex is prohibited and may be interpreted to include breastfeeding. However Canada does not guarantee breaks for mothers to breastfeed or express milk.

Annual Leave

- At least 89 countries guarantee three weeks or more of paid leave per year. In most of Canada, workers with one year's tenure are guaranteed only two weeks vacation. In Ontario, Prince Edward Island and the Yukon even workers with extended years of service are guaranteed only two weeks of vacation.

Sick Leave

- At least 156 countries provide leave for sick workers. Of these at least 81 guarantee complete wage replacement. Canada guarantees sick workers only 55 percent of their insurable income for a period of 15 weeks; most provinces and territories do not guarantee job protection during leaves of over 12 days.

Areas of Significant Variation Between the Provinces

Leave Around Childbearing

- There is significant variation between Quebec and the rest of Canada in paid leave around childbearing. Quebec offers parents more choice, higher wage replacement rates, and 5 weeks paternity leave for men's exclusive use. In addition, Quebec allows self-employed workers to opt into parental benefits. No such provisions exist for self-employed workers in the rest of Canada. This omission is noteworthy as the group currently constitutes 15% of employment in Canada.

Working Conditions

Paid Annual Leave

- Across Canada, there is significant variation in vacation guarantees.
- After a year's service, Saskatchewan guarantees three weeks of vacation, while the rest of Canada guarantees two weeks of vacation.
- After 10 years' service, Saskatchewan guarantees four weeks of vacation, while PEI, Yukon, and Ontario still only guarantee two weeks vacation.

Overtime

- Most jurisdictions limit overtime through guaranteeing workers the right to refuse hours or setting a weekly or daily maximum. However New Brunswick, Nova Scotia and Prince Edward Island make neither of these guarantees, meaning that workers' overtime is not limited.

Sick Leave

- While all eligible Canadians can receive wage replacement while absent from work due to a serious illness through the federal government's Employment Insurance program, job protection for sick leave for over 12 days is only guaranteed in Saskatchewan and Quebec.

Leave to Care for Sick Family Members

- Alberta does not guarantee job protection for workers on leave to provide care or support to gravely ill family members at risk of dying. All other provinces and territories guarantee workers at least eight weeks of leave over a 26 week period.

Leave for Family Events

- Most jurisdictions guarantee bereavement leave for workers with a death in the family. Workers in Alberta, Nunavut and Ontarioⁱ are not guaranteed such leave, while those in Quebec, Newfoundland and Labrador and federally-regulated industries are guaranteed leave with pay.
- Quebec alone guarantees leave for weddings.

Discretionary Family Leave

- Most provinces offer unpaid, job-protected sick leave or family leave that can be used to care for children's health, and in some cases their educational needs or other family responsibilities. The territories do not make this guarantee, nor do Alberta and Ontario.ⁱⁱ

ⁱ However in Ontario, personal emergency leave is available to employees who work for companies that employ 50 or more people; currently 71% of the province's labour force meets these conditions. Up to ten days of unpaid leave is provided per year for employee's personal illness, injury, or medical emergency, or to attend to the death, illness, injury, medical emergency of, or urgent matter concerning, specified relatives.

ⁱⁱ See previous footnote.

Background

For the first time, an index to measure how Canada's public policy compares in meeting the needs of all Canadian working families has been created. We have examined provincial and territorial policy regarding such critical issues as paid sick leave, breastfeeding breaks at work, parental leave, and leave to care for other family needs.

The Work Equity Canada (WECan) Index has two functions. First, the Index measures progress in Canadian public policies for working families relative to global standards. Second, the Index enables us to look at variations in policies across the provinces and territories.

In this background section, we will discuss the demographic and social changes that have occurred in Canada and globally that make this Index necessary. The next section will discuss why we have chosen specific policies and measures as indicators of the support a country offers to working families.

Global Context: Demographics and Caregiving in the 21st Century

Throughout human history, both mothers and fathers, in addition to rearing children, have been engaged in productive activity. In recent times, what has markedly changed is not the fact that fathers and mothers work at multiple tasks but rather the location and nature of that work. Parents are increasingly working away from their homes and children and adults they are caring for. Moreover, their work hours and conditions fall less under their own control and are increasingly determined by supervisors and managers.

The demographic and social transformations that occurred in North America and Europe between the mid-1800s and the end of the 1900s are continuing to take place worldwide. First single women and men, then married women, moved into the industrial and post-industrial labor forces. In Canada, the female share of the labor force increased from 25 percent to 46 percent between 1960 and 2006¹. In comparison, the female share of the labor force in the United States increased from 32 percent to 46 percent over the same period of time.

Marked changes in urbanization have accompanied the dramatic changes in the composition of the labor force. Only 18 percent of the world's population lived in urban areas at the beginning of the twentieth century. By the century's end nearly half of the world's population did.^{2,3} The United Nations estimates that by the year 2050, this figure will reach 70 percent.⁴ The percentage of the population living in cities in Canada increased to 80 percent.⁵

Urbanization plays a key role in the changes that are occurring in community, work and family life. In addition to having less control over their schedules, working adults often have to move away from their extended family.^{6,7,8,9} Even when extended family migrate together to urban areas, the available housing often restricts the ability of large extended families to reside in one location.

Effect on children and families

The twin trends of urbanization and rising paid labor force participation in most of the world's regions mean that fewer adults are near their children or other family members during the work day. What do these trends and transformations mean for the well-being of families globally? Our research suggests that the effects of the transformations in labor force participation and urbanization on family health are critically influenced by working and social conditions.^{10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21} In a 2001 Canadian survey, Duxbury and Higgins found that 56% of respondents were spending more than an hour per week caring for a child or an elderly member of their family. 51% of respondents also felt that work had a negative impact on the time they spent with their children²².

Work and Family: A public concern

What can we do to improve how the needs of all working families, but particularly low-income families, are met? While firms may of their own initiative develop improved workplace policies, their voluntary efforts are unlikely to result in universal coverage for employees. Even when benefits to society would be significant, firms have little incentive to improve working conditions and benefits; in fact, there is often a disincentive if it means the company will have to bear the cost while its competitors may choose not to provide any coverage. The failure of the private sector to solve the work-family problem should not be surprising. There are many needed services that no one would ever expect companies to supply. Passage of legislation is thus necessary to increase the likelihood of implementation, even if the policy is not fully enforced. At a minimum, having legislation in place can support workers' demands for better treatment.

Most nations have not relied on companies to provide an education for their employees' children. Countries have recognized that providing public education is not closely related to the work of companies and thus would likely be left poorly attended and funded, if done at all. Just as it doesn't make sense for companies to be responsible for the education of their employees' twelve-year-old children, it doesn't make sense for them to be responsible for the early education of three- and four-year-olds or the after school education of school-aged children. In addition, most countries have not relied solely on businesses to maintain basic standards at work. Many of the basic steps taken to protect workers, such as health and safety regulations, workman's compensation, and anti-discrimination measures, have included roles for both government and business. Since private sector efforts cannot be expected to fulfill the needs of working parents alone, the Index was developed to examine performance by the public sector. While it may be argued that without enforcement, legislation and policies will have limited impact, having protective legislation in place is a necessary first step toward improving working conditions.

Selecting the Measures for the Index

The Work Equity Canada Index builds on the Global Work Family and Equity Index (WFEI). The Global WFEI comprises a comprehensive and evidence-based set of policies that are important to meeting the needs of working families. It is based on a thorough review of the medical and social scientific literature and norms codified in international agreements.

In order to select evidence-based items for the Global WFEI, our research team conducted a comprehensive review of the academic literature in a wide range of areas using the following databases: Social Science Citation Index, Science Citation Index, Sociofile, Econlit, Medline, and ERIC. Our criteria for including a policy on the weight of the research evidence were that the findings regarding the policy's importance to the health and well-being of working families were strong and statistically significant; had been replicated; and were consistent across time, location, and data source. The review included an examination of published research that documented the conditions faced by and the needs of working families, as well as those that investigated the consequences of existing policies and programs (or lack thereof) for the well-being of working families, their children, and their elderly and disabled members. In addition to this review of the literature, we elicited summary analyses of the evidence base on work and family issues from leaders in a variety of academic fields—ranging from child development to employment research to political science—as well as from public and private sector professionals at a series of conferences.

In order to identify the policies that had achieved global consensus, we conducted a comprehensive review of international agreements, treaties, covenants, and other legal documents that were relevant to work and family issues, including the more than 240 treaties proposed by the UN and the ILO. Our analysis included an assessment of the number of countries who had signed or ratified treaties, and the number of agreements both signed and proposed pertaining to a given issue. The sources with particular relevance to our Index items included the UN's Universal Declaration of Human Rights,²³ the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),²⁴ the Convention on the Rights of the Child (CRC),²⁵ the ILO's Holidays with Pay Convention (Convention 132), Workers with Family Responsibilities Convention (156), and Maternity Protection Convention (183).²⁶ This comprehensive research and international agreement review, together with a series of meetings with both national and international experts, led to the construction of an index with 12 items. The items examined in the Work Equity Canada Index are described below.

Description of Individual Items

The first eight items of the Index address the ability of working adults to care for children and dependents. The four remaining items of the Index specifically address the ability of working adults to care for adult family members who are elderly, living with a disability or otherwise in need of care.

The Index items are designed to examine policies in the workplace that enable employees to be active caregivers at the same time as succeeding at work. In addition, the items are designed to address the needs of working families to have services support the

care of children and other dependents while adult family members are at work. Finally, Index measures were developed to address the fact that the health and well-being of all—whether children, those with disabilities, or those who are aging—are best met not only through the support of their family but through their own ability to lead full, active lives.

This section of the report will describe each measure and summarize the research evidence behind the individual items selected for the Index. A bibliography of sources is provided at www.globalworkingfamilies.org.

Leave for Childbearing and Childrearing

Adequate paid leave for childbirth and childrearing is available to all working adults in a manner that allows them to care for infants and toddlers, maintain job security, and continue to financially contribute to the support of their family.

- Paid parental leave can improve children’s health outcomes. Research evidence has shown that paid maternal and paternal leave improves children’s health outcomes by making more time available to parents to provide essential care for their children. Paid maternal leave facilitates breastfeeding and reduces the risk of infections. Maternal and paternal leave policies alike increase the likelihood that children will receive necessary immunizations. Countries with paid parental leave policies have lower infant mortality and morbidity rates. Paid leave policies also encourage the formation of bonds between parents and children, contributing positively to children’s psychosocial development.
- Paid parental leave improves economic conditions of families. Access to paid parental leave increases the long-term employment and earning prospects of working parents, especially by eliminating the wage “child penalty” mothers often pay. The entire family benefits from parents’ increased job security and consistent income.
- Implementing paid parental leave policies provides economic returns to employers. Research has shown that having access to paid leave improves workers’ performance on the job. Workplaces with paid parental leave policies experience lower job turnover rates, leading to lower recruitment and training costs and a higher level of productivity. Workers in more supportive workplaces are likely to have higher levels of job satisfaction that, in turn, increase their commitment to their company’s success.
- Paid parental leave enjoys international consensus. Two widely accepted human rights instruments, the International Convention on Economic, Social, and Cultural Rights, and the Convention on the Elimination of Discrimination against Women, guarantee paid parental leave.

Support for Breastfeeding

Policies exist to guarantee to protect working women’s right to breastfeed and guarantee women breastfeeding breaks with pay.

- Breastfeeding results in lower infant and child mortality, with studies finding a 1.5- to 5-fold lower relative risk of mortality among breast-fed children. It also improves children’s health outcomes
- Breast-fed children have lower rates of gastrointestinal infections, respiratory tract infections, meningitis, and other infections. A higher fatality rate from diarrhea has

been documented among bottle-fed children in the U.S., Canada, and the United Kingdom.

Early Childhood Education and Care

High-quality early childhood education is widely available, affordable and accessible to all children between 3 and 5 years of age.

- Early childhood education increases school readiness. The tested benefits of high-quality early education include higher enrollment and attendance rates in primary school and improved academic performance. Children who participate in early childhood programs arrive at school better ready to learn. Early education contributes to better vocabularies and reading skills, lower need for special education programs, and reduced rates of repeating grades. These benefits have been shown to be especially strong for low-income and minority groups.
- Early childhood education improves children's academic achievements. In long-term studies, participants in early education programs scored better on tests and received better marks in school and on standardized tests than non-participants. The benefits of early childhood education last well into students' lives: studies have shown that a significant portion of achievement gaps in fifth grade are due to different levels of preparation in kindergarten. Students who attend early education programs have also been found to have higher rates of high school graduation.
- Early childhood education improves life achievements and reduces inequality. The benefits of early education stretch far beyond school. Research has shown that persons who attended preschool became more economically independent in adult life, more likely to be employed and supporting themselves on their own earnings, and less likely to need public assistance in the form of welfare payments. The social and behavioral benefits are also marked.
- Investments in early education yield a high rate of economic return. Early childhood education results in increased productivity and wages over a lifetime and a better standard of living in adulthood. Investing in early education reduces future expenditures on remedial and special education and decreases the need for expensive rehabilitation services. Likewise, it also lowers expenditures within the criminal justice system. Translating the effects on school success, socioeconomic success, and social responsibility into economic terms, researchers found that the investment in early education yielded a seven-fold return per child, and that the overall value of preschool in reducing future costs per year was greater than the cost of the preschool programs themselves.
- The quality and reliability of early education programs matter to parents' work. As with infant and toddler care, quality education programs for young children are crucial for parents' success at work. Higher earnings for parents and caregivers who are freer to enter the labor force are an additional indirect benefit of early education. Lack of quality early education can lead to higher rates of parental absenteeism and lower productivity on the job.

Educational Opportunities and Supervision for School-age Children Throughout the Day and the Year

High-quality educational and/or enrichment opportunities throughout the full year are available, accessible and affordable for all school-age children.

- Many young children are left alone after school. In many areas, the school day lasts between six and seven hours. The standard work day lasts at least eight hours or more. Thus, the school schedule is aligned with only a fraction of families' work schedules.
- After-school programs have academic benefits. Participation in after-school programs has been shown to improve homework performance and lower dropout and grade-repetition rates.
- After-school programs have social and emotional benefits. After-school programs have been shown to reduce juvenile arrests, reduce vandalism, and improve social skills. When communities make structured activities available to students in the after-school hours, fewer students suffer from major troubles including substance abuse and other behavioral and mental health problems.
- Vacation times for parents and children do not match. Typically, the school year lasts for approximately nine-and-a-half months and typical work schedules stretch over the entire calendar year. Thus, school schedules overlap with only a fraction of the work schedule.
- Summers can be difficult for working families. Working parents typically must work throughout the summers, while their children are out of school. Finding adequate care and educational opportunities can be a serious challenge. Even if available, summer programs usually cover only a portion of the summer vacation, leaving children with no structure for care and education during the weeks at the beginning and conclusion of the summer.
- When developmental opportunities are unavailable, summers set children back academically. For many children, summer vacations mean a prolonged break from school work that results in academic losses. A recent review of the educational literature found that extended summer vacations set back the achievement scores of school-age children by about a month, or one-tenth of a grade-level. While math scores went down for all children, low-income children fall back more than middle and upper income children in both math and reading.
- Structured summer programs can solve both problems. Organized summer programs have been shown to reduce summer setback and narrow the gaps between children growing up in different social and economic conditions. They also enable parents to work while their children are supervised. While supervision for school-age children during summer vacations is clearly needed, more than that is required in order to provide for children's educational and developmental needs.

Working Time

Policies exist that assure that all children have a parent or other adult guardian available to support their educational, emotional and developmental progress during non-school hours (including evenings, nights, weekends and holidays). Policies exist that ensure that working adults have adequate time to care for older or disabled family members if needed when other care is unavailable, such as during evenings, nights, weekends, and holidays. Policies exist to ensure that adults can afford necessities and attain a decent standard of living on a reasonable number of hours of paid work.

- Non-standard work is common and on the rise. The number of parents working during the evenings, nights, and weekends is on the rise in both North America and Europe. The occupations that are growing the fastest have unusually high percentages of employees working nonstandard hours.
- Low-wage workers must work long hours to survive economically. Low-wage workers also spend more time on average on unpaid activities such as transportation to work and accessing health care and other social services.
- Evening, night, weekend, and holiday work are typically not occurring by choice. Most evening and night shift workers do so not because they choose to, but because they have to.
- Parental evening and night work have negative consequences for children. Parents who work non-standard shifts are more likely to have children score low in math, vocabulary, and reading tests, who repeat a year, and who are suspended from school.
- Parental evening and night work have negative consequences for families. Families with adults who work the night and evening shifts report lower-quality home environments. In addition, shift-working couples have higher divorce rates.

Paid Leave and Flexibility for Children and Family Members' Health Needs

Adequate paid leave is available to all working adults when they need to attend to a family member's health needs.

- Paid family medical leave helps parents improve children's physical health. Parents play a critical role in caring for children's preventive and curative health. A series of studies have demonstrated that parental presence helps children recover more rapidly from illnesses and injuries, improves the outcomes for children with both acute and chronic illnesses, and is invaluable to children being treated both on an outpatient and inpatient basis. Parents who have paid leave are more likely to care for their children themselves when they were sick, as well as more likely to provide preventive health care.
- Paid family medical leave helps parents improve children's mental health. Parental involvement is equally critical in the case of children's mental health. This is true both for chronic problems and acute ones. The detrimental effects of separating young children from their parents when they are sick have been repeatedly demonstrated. When parental involvement in the care of sick children is increased, children's anxiety decreases. If parents are available, they can play an important role in easing the child's psychological adjustment to having a serious disease. Because of the importance of parental care, pediatricians have increasingly offered parents the chance to become involved in different aspects of the care of their children's health.

- Poverty and poor health are dangerous and mutually-reinforcing obstacles for many families. A growing body of international research indicates that poor working parents have greater caregiving responsibilities than non-poor families since children and adults in low-income families have higher rates of illness.
- Poor working caregivers are significantly more likely than non-poor working caregivers to lack the benefits they need to succeed at work while caring for their families.

Flexibility to Meet Children’s Educational Needs and Other Family Responsibilities

Discretionary paid leave and paid leave for family events is available to all working adults to attend to other essential family needs.

- Parental involvement is crucial to children’s educational and developmental outcomes. When parents are involved in their children’s education, children achieve more in elementary school, junior high school, and high school. Parental involvement is associated with children’s higher achievement in language and mathematics, improved behavior, greater academic persistence, and lower dropout rates. At all ages, children do better in school if their fathers are involved as well as their mothers.
- Parental involvement is particularly important for children who are at risk educationally, including children living in poverty and children with learning disabilities. Studies show that parental participation is particularly important in improving the academic achievement of children from families of low socio-economic status. When the parents of children with learning disabilities are taught ways to help them, their children have been shown to perform even better on standardized tests of reading than comparable children who received tutoring in school but no at-home help.
- Adequate working conditions are essential if workers are to attend to their families’ needs. In order to be involved with their children’s education, parents need leave from or flexibility at work for such things as parent-teacher conferences and consultation with specialists.
- Parents of children who are most in need of educational support are least likely to have working conditions that enable them to meet those needs. Low-income working parents are less likely than middle-income parents to have the paid leave from work or flexibility at work that parents often use to address the educational, developmental, and health needs of their children during the workday.
- Paid leave is supported by international agreements. The Universal Declaration of Human Rights (accepted by 171 nations) and the International Covenant on Economic, Social and Cultural Rights (accepted by 148 nations) call on states to guarantee workers “reasonable limitations of working hours and periodic holidays with pay.”

Paid Leave and Flexibility for Personal Health Needs

Adequate paid leave is available to all working adults to attend to personal health needs.

- Paid leave is crucial to the ability of employees to meet their own health needs.
- Individual health is critical in order to balance multiple responsibilities. A sick adult cannot perform to his or her best ability at work, care for children and dependent adults, or participate in the community as well as he or she could when in good health.
- When sick employees come to work, they may spread infectious illnesses or reduce productivity.

Access of Adults with Disabilities to Equal Employment Opportunities Access of Adults with Disabilities to Participate Fully in Family and Community Activities

Policies exist to protect adults with disabilities who are able and willing to work from discrimination in employment practices including hiring, training, and promotion, and to support their participation in the workforce. Access of adults with disabilities to family and community activities is facilitated by policies that decrease barriers and support full participation in these activities.

- The ability of adults with disabilities to live full lives has implications for workplaces and families, in addition to the individual. Workplaces that discriminate against employees with disabilities forfeit the skills these individuals can bring to the workforce. For individuals and their families, discrimination can lead to unnecessary degrees of dependence. When given the right supports, many adults with disabilities are able to be as productive as non-disabled workers in a wide range of different occupations. Furthermore, once hired, the ILO reports that employees with disabilities tend to work longer for the same employer than employees without disabilities do and, excluding work missed because of their disability, tend to miss fewer days of work than their colleagues without disabilities.
- Data from around the world suggest that the adults with disabilities are more likely than adults without disabilities to be economically and socially disadvantaged. Adults with disabilities often have less access to education than people without disabilities do. There is also evidence to suggest that in many countries adults with disabilities are less likely to marry, have children, or act as the head of a household. Adults with disabilities also have higher rates of unemployment and lower rates of economic participation. Furthermore, there is evidence to suggest that those who live in the same household with an adult experiencing a disability are more likely to be poor and experience hunger.

Access of Older Adults to Equal Employment Opportunities Access of Older Adults to Participate Fully in Family and Community Activities

Policies exist to protect older persons who are able and willing to work from age-based discrimination in employment practices including hiring, training, and promotion, and to support their participation. Access of older adults to family and community activities is facilitated by policies that decrease barriers and support full participation.

- The population of older adults is large and growing. In 2000, the population of individuals 60 years old or older reached 606 million, or 10 percent of the total world population. This population is projected to expand rapidly by 2050, reaching two billion, or 21 percent of the total world population. In industrialized regions, 20 percent of the population is currently over 60, and the proportion is expected to reach 33 percent by 2050.
- Many older adults continue to work. However, discrimination related to age in hiring, training, promotion and compensation practices have been a growing concern for older workers worldwide.
- Many older adults care for family members. Older people throughout the world make instrumental contributions to their households by caring for grandchildren and performing domestic work that allows other household members to engage in direct economic activity. In many instances, the proportion of older adults who provide their adult children with household support is comparable to the proportion receiving financial or instrumental help.
- Participation in community activities is associated with enhanced quality of life. Strong social networks are instrumental in promoting continued physical and mental activity, which is crucial to healthy aging. To ensure that older persons can fully participate in community activities, accommodations are necessary to render public places and community activities accessible.

Items That Were not Included

Some items of the original World Family and Equity Index were not included in this Canadian review. Although they are equally crucial to the well-being of working families in Canada, some of them are already well addressed by, for example, the public Canadian health care system and services that are universally available. Time and staffing constraints also precluded other measures of interest to be reviewed but they remain a priority for future research at the Institute for Health and Social Policy. For a complete list of the original items, please refer to the 2004 Work, Family, and Equity Index at www.globalworkingfamilies.org .

Collecting Canadian Data

Description of Data Sources Method

Information was collected on an assortment of policies for each indicator of the Index across the relevant Canadian jurisdictions (the provinces, territories and the federal jurisdiction). Sources of information include provincial, territorial and federal education acts, labour codes and human rights codes, as well as other legislation and policies addressing the needs of working families and applying universally. Programs that were not guaranteed by law were not included, as they are more subject to change. Some programs are also implemented at a very small scale, making it difficult to assess their universality and compare them to other provinces. The information was gathered from the following sources: provincial, territorial and federal publications, policies and websites, the Canadian Legal Information Institute, Statistics Canada, research institutes, and academic publications.

Data Checking and Verification

To minimize omissions and assure accuracy, the collected information was sent to experts within the relevant departments within the provinces, territories and federal government. Labour, education, health, and social services departments were contacted for the study, as well as human rights bodies and offices of disabilities.ⁱⁱⁱ While extensive efforts were undertaken to ensure the greatest possible accuracy, inadvertent errors may remain. We welcome feedback regarding any such errors or omissions, and will update the online report as new evidence is received.

Collecting Global Data

In order to assess how Canadian provinces and territories are performing relative to countries around the world on each of the index measures, we compare to data collected by the Project on Global Working Families (PGWF) led by Heymann. Further information on this initiative is available at:

www.mcgill.ca/ihsp/globalresearch/globalworkingfamilies

ⁱⁱⁱ When targeted departments did not exist, the department responsible for these topics were contacted.

Understanding the Jurisdictions

Separation of Powers

Canada is a federal state, meaning that the control or “jurisdiction” over policies is divided between the federal government and provinces or territories. Division of power over specific areas of legislation is laid out in sections 91 and 92 of the Constitution Act, 1867. Labour, education, childcare, human rights and discrimination generally fall within provincial or territorial jurisdiction; there are, however, important exceptions to this rule:

Labour

About 10% of the population is covered by the Federal Labour Code, rather than the Labour Code of their province or territory of residence, by virtue of the sector in which they work^{iv}.

Education and Childcare

While provinces and territories are responsible for education and childcare programs, the federal government has in fact been a key player in these areas through the use of its funding mechanisms. In some cases, First Nations also have authority over these issues.

Human Rights and Discrimination

Provinces and territories have jurisdiction over human rights within the private sphere. Because most of our information concerns the private realm, we will examine provincial or territorial human rights legislation.

On the other hand, there are areas in which the federal government has authority over all provinces and territories. For example, although job protection during paid leave is legislated at the provincial or territorial level, the payments received by the employees on leave come from the federal government’s Employment Insurance program. The same is true of earnings associated with maternity and parental leave (except for Quebec), compassionate care leave and long-term sick leave.

^{iv} This includes individuals working for the Government of Canada and those working in an industry regulated by the federal government according to the Constitution Act, 1867. Among areas regulated by the federal government are marine shipping services; air transportation; railways; road transportation; canals, pipelines tunnels and bridges; telephone, telegraph and cable systems; radio and television broadcasting; and banks.^{iv} Information related to the policies affecting workers in these federally-regulated industries will be included in Appendix A.

Leave around childbearing and childrearing

Paid Leave Around Childbearing

- *In Canada*, the maximum paid leave for women (maternity and parental) is 50 weeks, if their partner does not take any of the shared parental leave.^v The maximum paid leave for men (paternity and parental) is 37 weeks in Quebec^{vi} and 35 weeks in the rest of Canada, if their partner does not take any parental leave.²⁷
- *Globally*, at least 31 countries provide a longer paid leave for women than Canada and at least 23 countries provide longer paid leave for men. Moreover, at least 40 countries provide paid paternity leave, or leave for men's exclusive use. Paternity leave has been found to increase the uptake of leave by men and increase equity in caregiving. The length of paternity leave is usually short, with 34 countries offering less than 4 weeks paid leave. *In Canada*, men may take parental leave, however only Quebec provides paternity leave for men's exclusive use.

Table 1: Maternity, Paternity and Parental Leave Benefits for Biological Children²⁸

	Quebec		Rest of Canada
	Basic Plan	Special Plan	
Maternity Leave	18 weeks at 70%	15 weeks at 75%	15 weeks at 55%
Paternity Leave	5 weeks at 70%	3 weeks at 75%	None
Parental Leave^{vii}	7 weeks at 70%; plus 25 weeks at 55%	25 weeks at 75%	35 weeks at 55%
Total Paid Leave per Family	30 weeks at 70% plus 25 weeks at 55% (Total 55 paid weeks)	43 weeks at 75%	50 weeks at 55%

^v Federally, 15 weeks of maternity benefits are for the mother to recover from the physical effects of childbirth. Thirty-five (35) weeks of parental benefits can be used by one parent (mother or father) or shared between both.

^{vi} Quebec is the only province having opted out of the federal program in order to establish its own maternity, paternity and parental leave scheme.

^{vii} Parental leave benefits can be used by either parent or split between the couple.

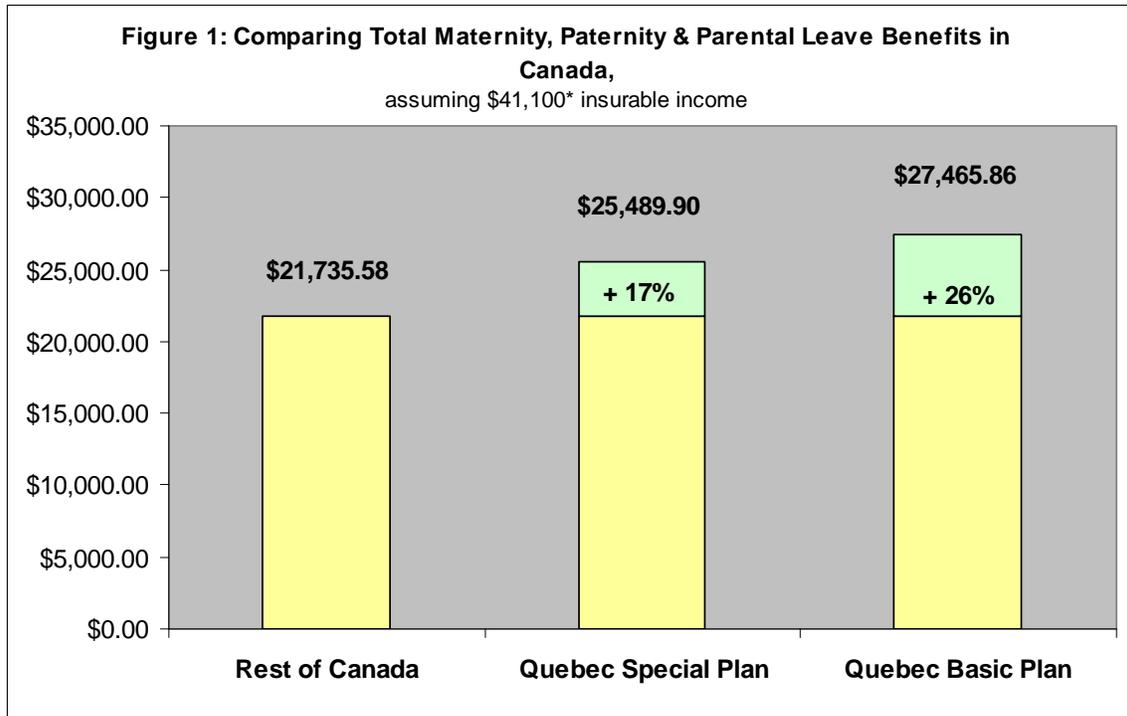
Table 2: Parental Leave Benefits for Adopted Children²⁹

	Quebec		Rest of Canada
	Basic Plan	Special Plan	
Adoption or Parental Benefits	12 weeks at 70%; plus 25 weeks at 55% (Total 37 paid weeks)	28 weeks at 75%	35 weeks at 55%

Benefit Levels

- *In all of Canada except Quebec*, parental leave benefits are received through the federal Employment Insurance plan.^{viii} Quebec has opted out of the federal parental benefits system and has created its own parental benefits package, which offers parents the choice of two plans. Quebec’s “basic plan” offers lower wage replacement rates for a longer period of time, while Quebec’s “special plan” offers higher wage replacement rates for a shorter period of time.
- The right to unpaid leave - functionally job protection - is legislated within each provincial or territorial jurisdiction.

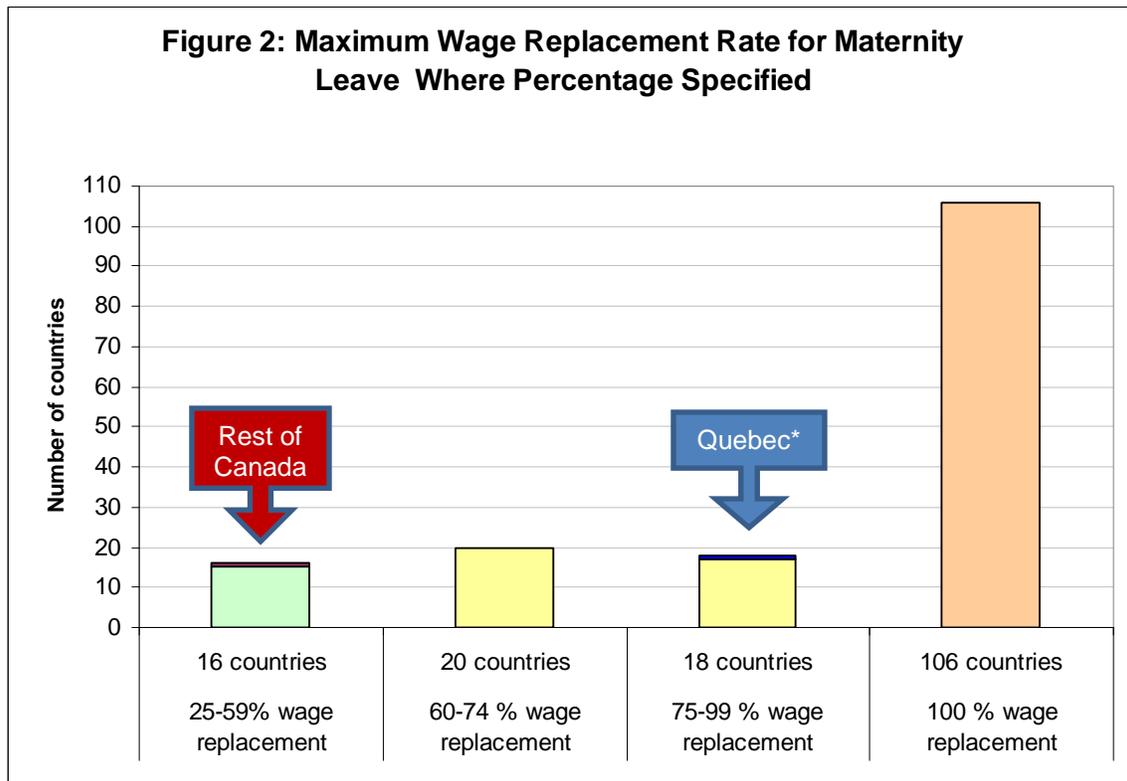
^{viii} For eligibility purposes, individuals must accumulate 600 hours of insured work in the previous 52 weeks to be eligible for EI special benefits, including maternity, parental, sickness, and compassionate care.



* \$41,100 is the 2008 Maximum Insurable Earnings for federal benefits. Within Quebec, the 2008 Maximum Insurable Earnings is \$60,500. (Service Canada. (2008) "Employment Insurance (EI) and maternity, parental and sickness benefits." <http://www1.servicecanada.gc.ca/en/ei/types/special.shtml>; Quebec, Régime québécois d'assurance parentale (2008) "Premiums and maximum insurable income." http://www.rqap.gouv.qc.ca/a-propos-regime/cotisations_en.asp)

Wage Replacement Rate

- *In Canada*, the federal government provides a wage replacement rate of 55 percent of a family’s insurable income. Quebec’s wage replacement rate ranges from 55 to 75 percent.³⁰
- *Globally*, at least 144 countries provide a wage replacement rate of 60 percent or higher during maternity leave. Of these, 106 countries provide 100 percent of wages during maternity leave.^{ix}

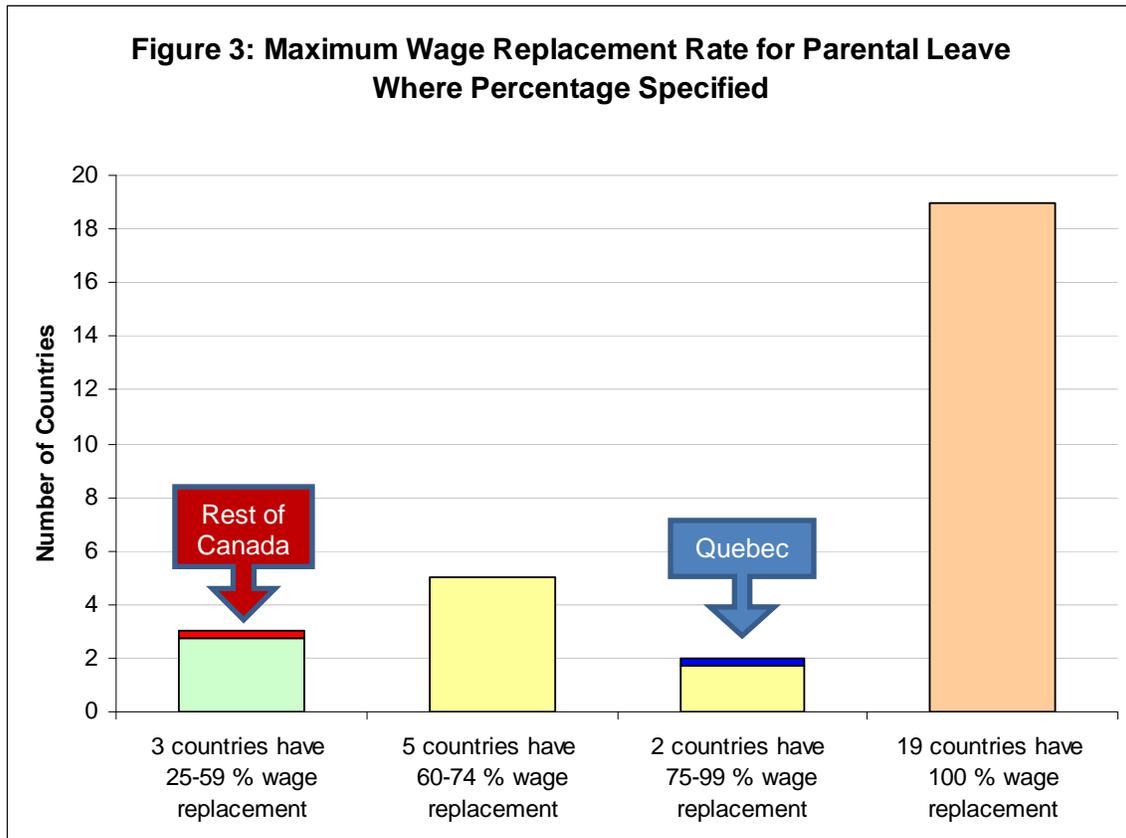


* Provinces and territories are not included in the final count of countries, as they represent a sub-national level of jurisdiction. Where they are represented on graphs, it is solely for comparative purposes.

^{ix} This classifies the highest level of provision; countries get credit for a 100% replacement rate, if any portion of the leave pays 100%

Wage replacement rate (continued)

- Globally, at least 25 countries provide a wage replacement rate of 60 percent or higher during parental leave. 19 countries provide 100 percent of wages during parental leave.^x Canada, with a wage replacement rate of 55%, is among the 3 countries offering between 25-59% of wage replacement. With its special plan, Quebec falls into the same category as 2 countries, offering between 75-99% of wage replacement.



^x This classifies the highest level of provision; countries get credit for a 100% replacement rate, if any portion of the leave pays 100%

Box 1: Comparing Eligibility for Parental Leave Benefits Quebec and the Rest of Canada³¹

REQUIREMENTS:

1) INSURABLE EMPLOYMENT

Quebec

- self-employed can opt in
- includes most other forms of employment

Rest of Canada

- excludes self-employed work
- includes most other forms of employment

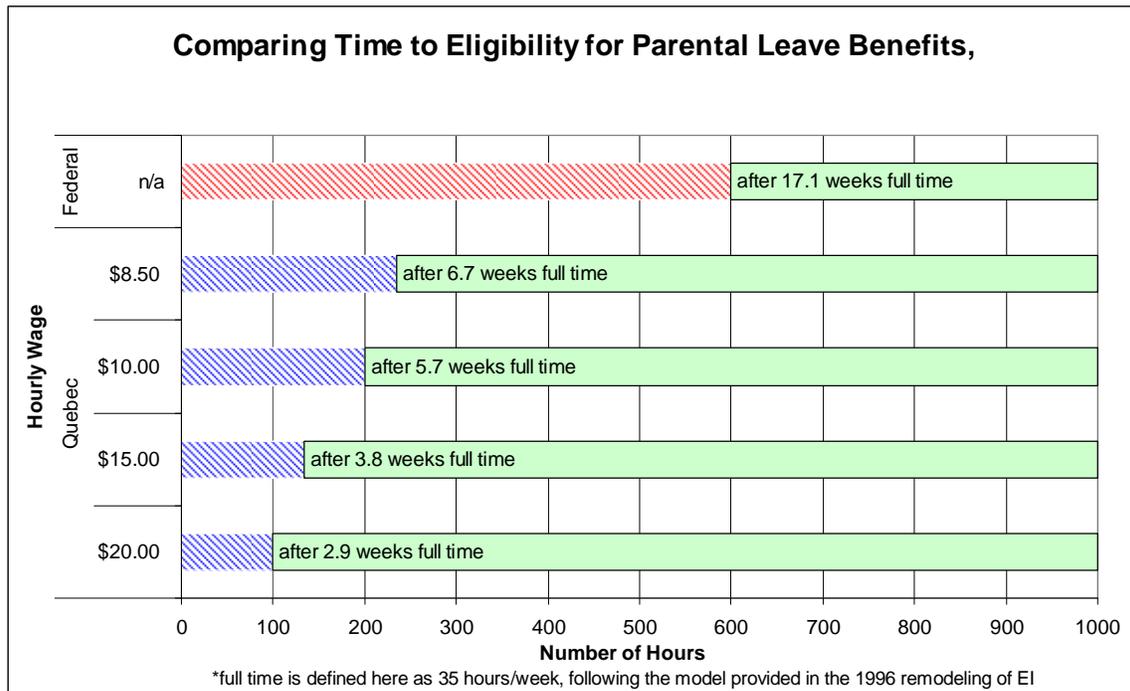
2) INSURED HOURS OR AMOUNT

Quebec

- at least \$2,000 of insurable income in the qualifying period

Rest of Canada

- at least 600 hours of insured work in the qualifying period



3) REDUCTION IN EARNINGS

Quebec

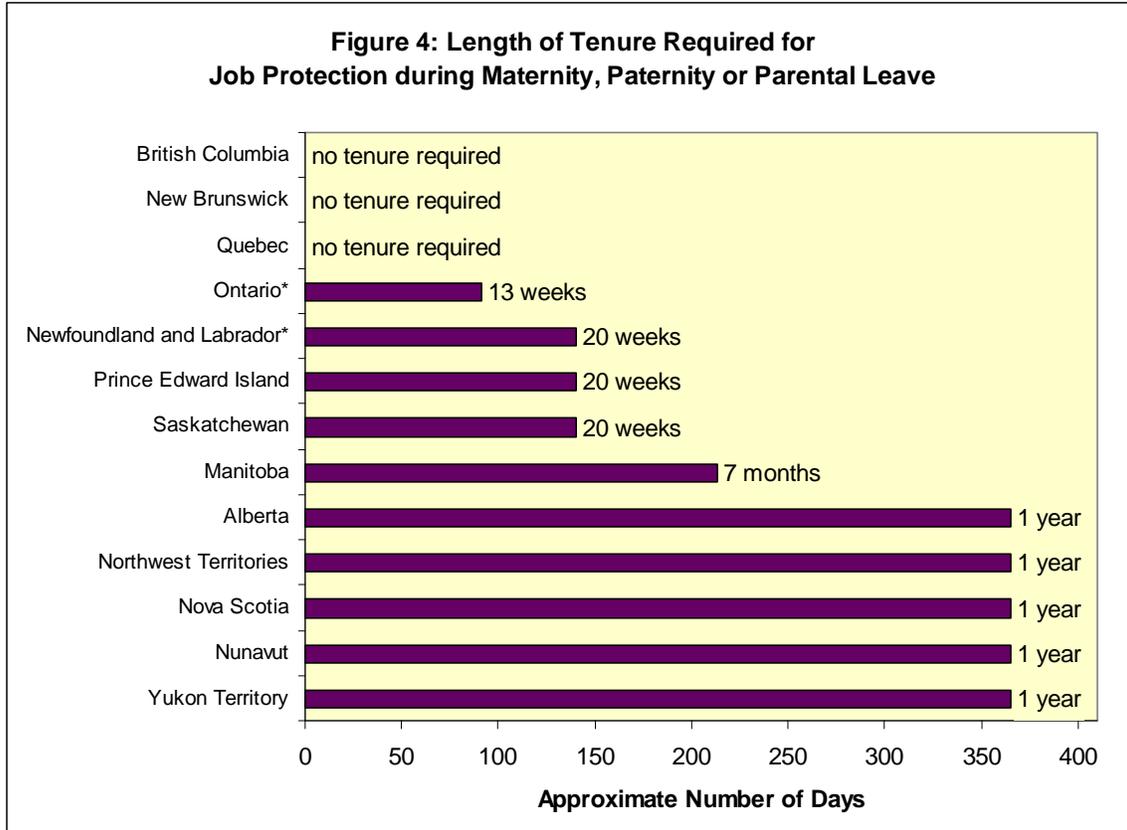
- workers whose earnings have been reduced by 40% or more

Federal

- workers whose earnings have been reduced by 40% or more

Job Protection Around Childbearing: Tenure Required

- Eligibility for job-protection during maternity, paternity or parental leave varies across the country. In Alberta, Northwest Territories, Nova Scotia, Nunavut, and Yukon Territory, workers must have one year’s service with an employer before being eligible, while in British Columbia, New Brunswick and Quebec no such restrictions exist. More details are given in figure 1 below.³²



*In Ontario and Newfoundland and Labrador, the length of tenure is measured from the day a woman began working to her due date (as opposed to the day she intends to commence her leave.)

Support for Breastfeeding

Paid Breastfeeding Breaks

- *In Canada*, no jurisdiction guarantees paid breastfeeding breaks through legislation.
- *Globally*, at least 114 countries guarantee breastfeeding breaks.

Other Forms of Breastfeeding Protection

Paid breastfeeding breaks are not guaranteed by legislation in Canada, however protection against sex discrimination has been interpreted as including protection against discrimination based on breastfeeding in some cases before federal, provincial and territorial human rights tribunals. These tribunals have been building on previous case law to expand what is included under discrimination based on sex. However, it is important to note that unlike other courts, human rights tribunals are not bound to follow precedent. Likewise, while some human rights commissions have issued policies prohibiting breastfeeding discrimination, these policies do not technically bind the associated tribunals.

- Notably, all jurisdictions explicitly prohibit discrimination on the basis of sex³³ and most explicitly prohibit discrimination on the basis of pregnancy.³⁴
- See Appendices D and E for a detailed description of human rights commissions and tribunals and their rulings regarding breastfeeding.

Table 3: Forms of Breastfeeding Protection by Jurisdiction³⁵

	Alberta	Nova Scotia	Ontario	Prince Edward Island	New Brunswick	British Columbia	Manitoba	Saskatchewan	Newfoundland and Labrador	Quebec	Northwest Territories	Nunavut	Yukon Territory
Legislation guarantees female employees <u>paid</u> breastfeeding breaks	No	No	No	No	No	No	No	No	No	No	No	No	No
Policy statements by the Human Rights Commission, Tribunal or other official bodies <u>explicitly</u>													
... <u>require</u> employers to accommodate employees through the <u>provision of breastfeeding breaks</u> or other means (unless doing so entails undue hardship.)	Yes	Yes	Yes	Yes	No ^{xi}	No	No	No ^{xii}	No	No	No	No	No
... <u>prohibit discrimination</u> in employment in relation to <u>breastfeeding</u>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No ^{xiii}	No	No	No	No	No
The Human Rights Act, Code, Charter or Regulation <u>explicitly prohibits discrimination in employment</u> on the grounds of													
... <u>sex or gender</u>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
... <u>pregnancy</u>	Yes	Yes	Yes	No	Yes	No ^{xiv}	Yes	Yes	No	Yes	Yes	Yes	Yes
... <u>breastfeeding</u>	No	No	No	No	No	No	No	No	No	No	No	No	No

^{xi} New Brunswick hopes to make changes to their guideline to deal with breastfeeding in the workplace and reasonable accommodation by the fall.

^{xii} Saskatchewan has an Employer's guide that requires employers to provide breastfeeding breaks. This is an explicit statement based on law and supported by the Saskatchewan Human Rights Commission, but not a policy statement.

^{xiii} In Saskatchewan, such provisions prohibiting discrimination in employment relating to breastfeeding are explicitly included in Saskatchewan's Employer's Guide. This is an explicit statement based on law and supported by the Saskatchewan Human Rights Commission, but not a policy statement.

^{xiv} However, in British Columbia, policy statements prohibit discrimination in employment in relation to pregnancy.

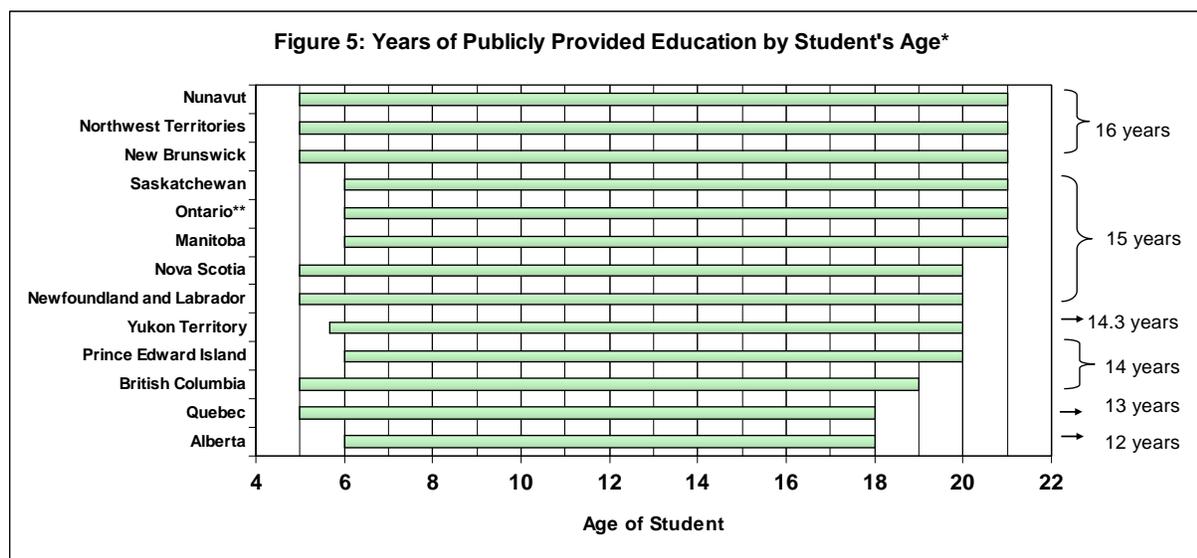
Early Childhood Education and Care

- Accessible, high quality early childhood education and care is essential for enabling working parents to balance their work and family commitments.
- For an excellent comparative look at early childhood education and care in Canada, please see Martha Friendly et al (2005), Childcare Resource and Research Unit, *Early childhood education and care in Canada 2006*, Available at: http://www.childcarecanada.org/pubs/other/TandA/Trends_Analysis07.pdf

Educational Opportunities and Supervision for School-age Children

Years of Publicly Funded Education

- *In Canada*, students are eligible for publicly funded education as young as 4 years old and as old as 21 years. Often students will graduate before reaching the maximum age.³⁶

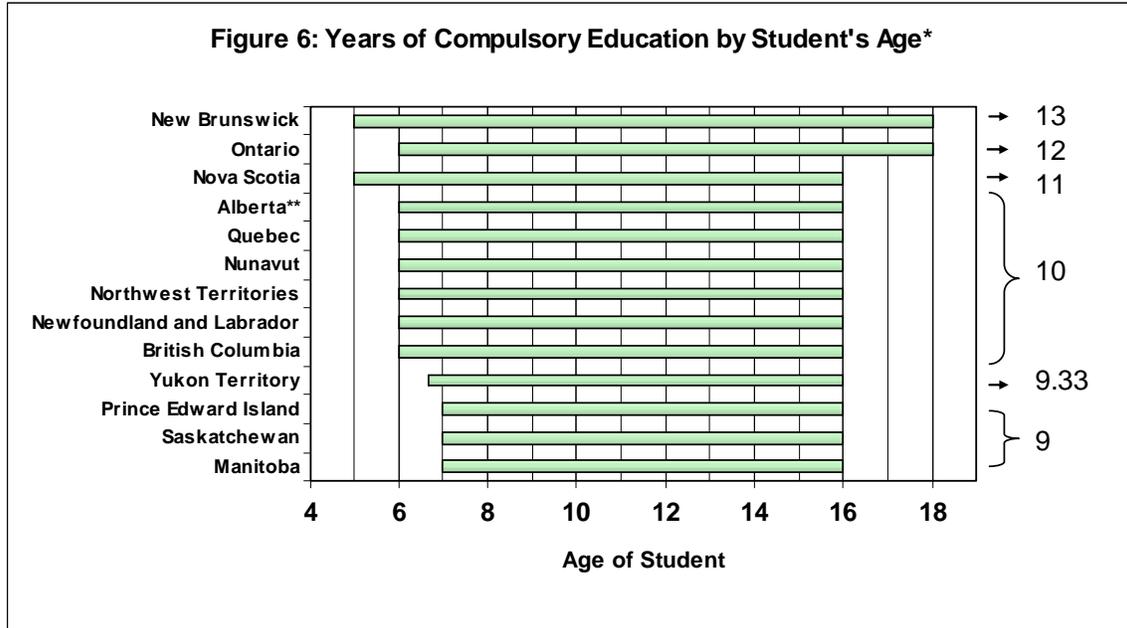


*The date by which the **age of entrance** is measured differs by jurisdiction. Yukon Territory, Ontario and Alberta use September 1. British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories and Nunavut use December 31. Nova Scotia and Quebec uses October 1. Prince Edward Island will use October 31 for 2007-2008, September 30 for 2008-2009, and August 31 all years afterwards. No regulations were found regarding the date by which compulsory age is measured for Saskatchewan. The date by which the **age of exit** is measured differs by jurisdiction. Yukon Territory and Alberta use September 1. Newfoundland and Labrador, Northwest Territories and Nunavut use December 31. British Columbia, New Brunswick uses the end of the school year. Manitoba and Ontario uses the last school day of June in the year. Quebec uses the last day of the school calendar in the school year. No regulations were found regarding the date by which age of exit is measured for Nova Scotia, Prince Edward Island Saskatchewan.

** In Ontario, if boards choose to offer kindergarten, the entry age is lowered to five years; if boards choose to offer junior kindergarten as well, the entry age is lowered to four years.

Years of Compulsory Education

- *In Canada*, the years of compulsory and publicly funded education range from 9 to 13 years.³⁷

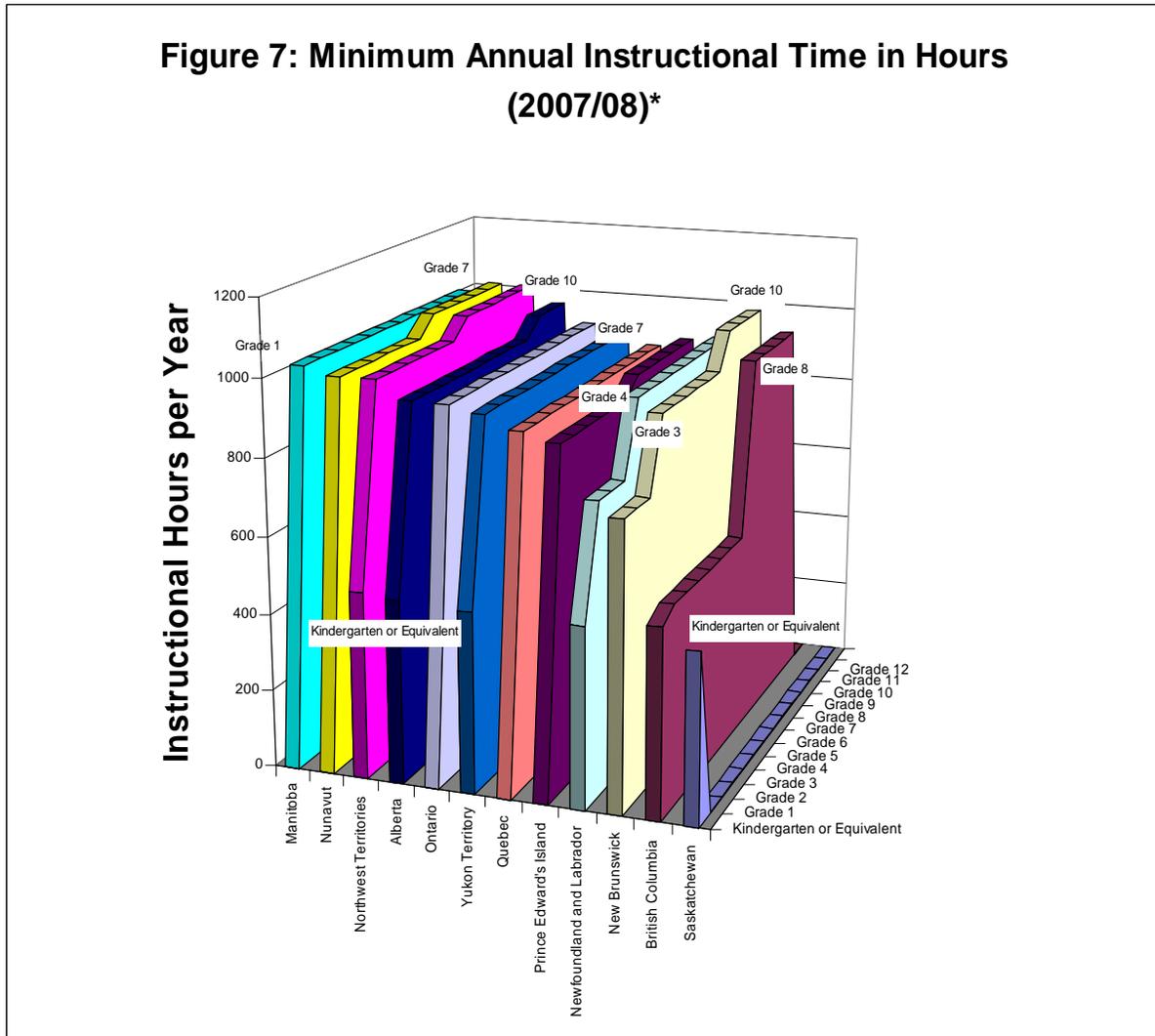


*The date by which the compulsory age of entrance is measured differs by jurisdiction. Yukon Territory and Alberta use September 1. British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories and Nunavut use December 31. Ontario uses age as of the first day of school in September. Nova Scotia uses October 1. Quebec uses the age achieved during the prior school year. Prince Edward Island will use October 31 for 2007-2008, September 30 for 2008-2009, and August 31 all years afterwards. No regulations were found regarding the date by which compulsory age is measured for Saskatchewan.

**Alberta's mandatory age will change from 6 - 16 to 6-17 when the Act "School (Compulsory Attendance) Amendment Act, 2003, S.A. 2003, c. 9" is proclaimed.

Instructional Time

- Minimum instructional time is important to working families because of its implication for education and for children’s supervised learning during parents’ work day.^{xv} In Canada, annual minimums vary widely as shown below.³⁸ Note that in some jurisdictions, actual instructional times regularly exceed these minimums.



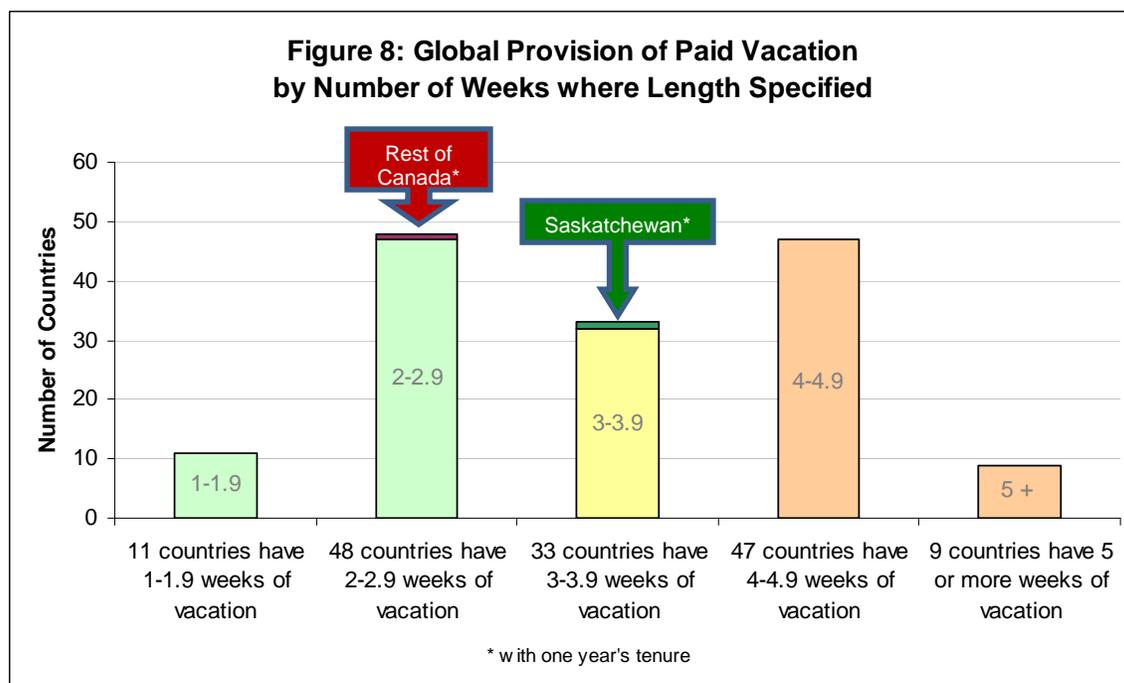
* Many provinces do not state a minimum annual instruction time in hours. In these cases the numbers were calculated by multiplying the minimum number of instructional days per year with the minimum number of daily instructional hours. Any discrepancies are the fault of the author. Note that some jurisdictions include recesses in their calculation of hourly minimums.

^{xv} In some jurisdictions, actual instructional times often exceed these minimums.

Working Time

Paid Vacation

- *In Canada*, all jurisdictions guarantee a paid annual vacation of at least 2 weeks for full time employees with one year’s service.^{xvi} Saskatchewan guarantees an additional week for a total of 3 weeks vacation for employees with one year’s service (see table 4).
- *In Canada*, in most jurisdictions annual leave increases to three weeks (or in the case of Saskatchewan, 4 weeks) after a given number of years’ service. Ontario, Prince Edward Island and Yukon Territory are exceptions to this rule: in these jurisdictions the annual leave guarantee is fixed at two weeks.
- *Globally*, at least 56 countries provide 4 or more weeks of paid vacation.



^{xvi} In some jurisdictions, such as the Yukon, employers and employees may enter into a written agreement where vacation will not be taken. In other jurisdictions, such as Alberta, limited exceptions on coverage apply. In other jurisdictions still, there may be a lag period in the granting of vacations; for instance in Ontario, employers must schedule two weeks vacation time within 10 months of completion of the first year of employment.

Paid Vacation (continued)

Table 4: Comparing Paid Annual Leave in Canada^{xvii 39}

	Quebec	New Brunswick	Saskatchewan	British Columbia	Manitoba	Alberta	Northwest Territories	Nunavut	Nova Scotia	Newfoundland and Labrador	Prince Edward Island	Yukon Territory	Ontario
Prior to one year's service employees are entitled to:													
... <u>vacation pay</u>	Yes	Yes	Yes	Yes*	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes*	Yes
... <u>a day vacation per month</u> worked (up to 2 weeks)	Yes	Yes	No	No	No	No	No	No	No	No	No	No	No ^{xviii}
After one year's service:													
... <u>at least 2 weeks vacation</u>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes ^{xix}
... <u>at least 3 weeks vacation</u>	No	No	Yes	No	No	No	No	No	No	No	No	No	No
Vacation entitlements with increased years of service...													
... <u>increase?</u>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
Number of years of service needed for an <u>additional week of vacation</u>	5	8	10	5	5	5	6	5	8	15	n/a	n/a	n/a

* Employees are entitled to vacation pay after 5 calendar days in BC and after 14 continuous days in Yukon Territory

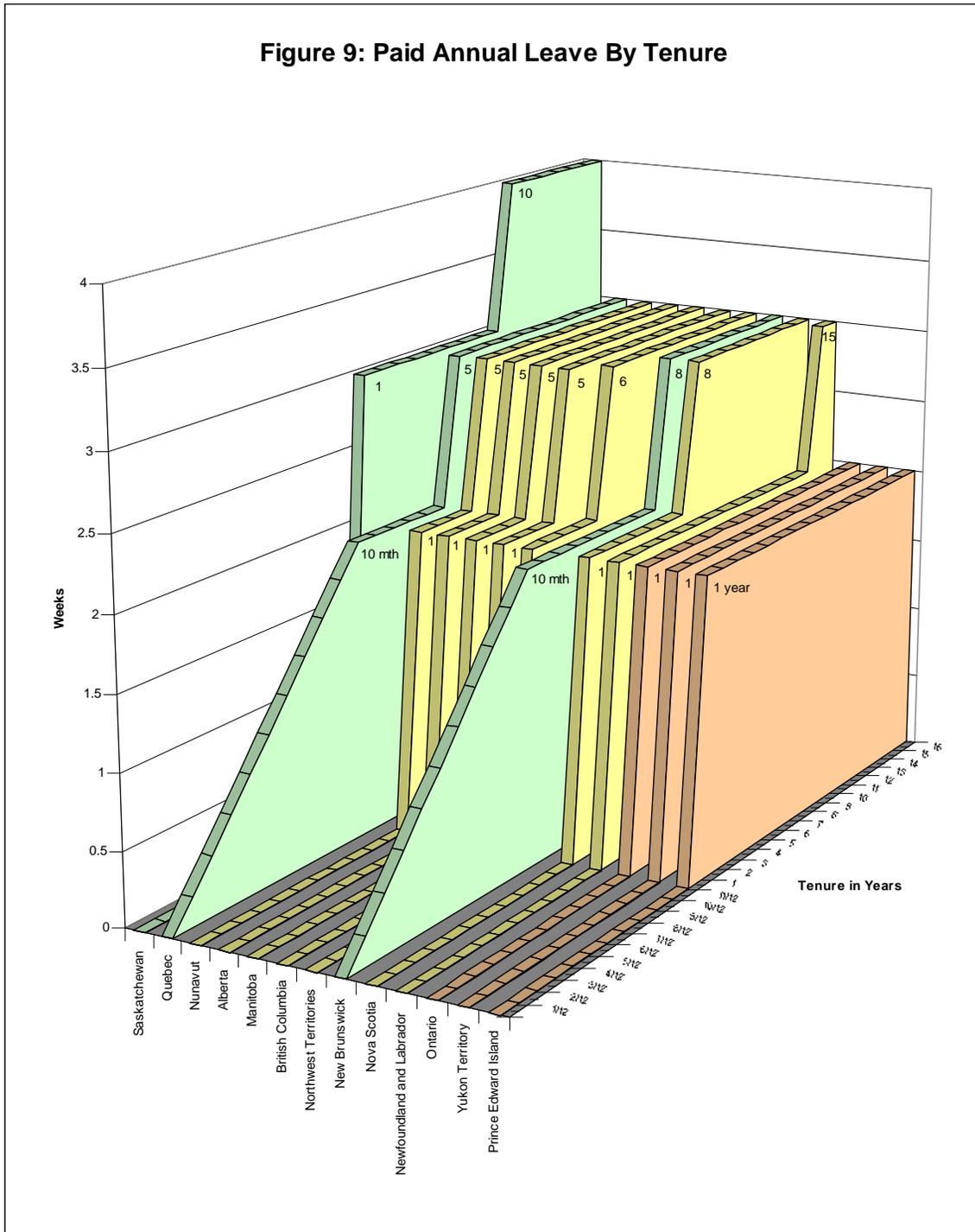
^{xvii} Some exceptions apply, see previous footnote.

^{xviii} If for vacations, a year of employment is calculated on the employee's date of hire, there is no right to vacation time prior to completion of one year of employment. When employer establishes an alternative vacation entitlement year, there is no entitlement to vacation until the completion of a "stub period" which precedes the commencement of alternative vacation year.

^{xix} In Ontario, employer must schedule two weeks vacation time within 10 months of completion of first year of employment (or pro-rated amount for stub period) and two weeks vacation within 10 months of completion of each vacation entitlement year thereafter. Note that vacation pay paid in respect of vacation time is calculated as 4% of wages earned in each vacation entitlement year and stub period (if any) and is generally payable prior to commencement of employee's vacation.

Paid Vacation (continued)

Figure 9: Paid Annual Leave By Tenure



Overtime: Hours when Overtime Premiums are Paid

- *In Canada*, most jurisdictions guarantee overtime premiums after working 40 hours per week. Alberta, Ontario, and New Brunswick make this guarantee after 44 hours per week. Nova Scotia and Prince Edward Island make this guarantee after 48 hours per week.^{xx}
- *In Canada*, many jurisdictions also guarantee overtime premiums after an 8 hour working day. New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, and Quebec do not legislate daily periods for overtime premiums.

Table 5: Number of Hours Worked per Week before Overtime Premiums are Paid^{40 xxi}

Number of hours worked per week before overtime premiums are paid	British Columbia	Manitoba	Northwest Territories	Nunavut	Saskatchewan	Yukon Territory	Newfoundland and Labrador	Quebec	Alberta	New Brunswick	Ontario	Nova Scotia	Prince Edward Island
...by week	40	40	40	40	40	40	40	40	44	44	44	48	48
...by day	8	8	8	8	8	8	n/a	n/a	8	n/a	n/a	n/a	n/a

^{xx} Some exceptions apply. For instance, in Nova Scotia people in the transportation industry receive overtime pay after working 96 hours over a 2 week period and those in the construction and property maintenance industry receive overtime pay after working 110 hours over a 2 week period. In Quebec, overtime is calculated according to different working weeks in some industries.

^{xxi} Some exceptions apply, see previous footnote for examples.

Overtime Rates

- Globally, at least 72 countries guarantee workers 150% of their regular wages or more.

Table 6: Overtime Rates⁴¹ and Minimum Wage⁴²

Jurisdiction	Overtime Rate ^{xxii}	Minimum Wage ^{xxiii} (as of 09/2008)	Additional Premium for Longer over Time
British Columbia	150% regular wage	\$8.00	Yes - after 12 hours a day, 200% regular wage
Alberta	150% regular wage ^{xxiv}	\$8.40	None
Manitoba	150% regular wage	\$8.50	None
Northwest Territories	150% regular wage	\$8.25	None
Nunavut	150% regular wage	\$10.00	None
Ontario	150% regular wage	\$8.75 ^{xxv}	None
Prince Edward Island	150% regular wage	\$7.75 ^{xxvi}	None
Quebec	150% regular wage	\$8.50	None
Saskatchewan	150% regular wage	\$8.60 ^{xxvii}	None
Yukon Territory	150% regular wage	\$8.58 ^{xxviii}	None
Nova Scotia	150% regular wage ^{xxix}	\$8.10 ^{xxx}	None
Newfoundland and Labrador	150% minimum wage	\$8.00 ^{xxxi}	None
New Brunswick	150% minimum wage	\$7.75	None

^{xxii} Some exceptions apply, see previous footnote for examples.

^{xxiii} Minimum wage for experienced, adult workers. In some jurisdictions lower rates apply to young or inexperienced workers.

^{xxiv} In Alberta, this is calculated as minimum wage for some groups of workers who are paid a combination of salary and bonus, where the salary is below minimum wage.

^{xxv} Expected increases: \$9.50 March 2009; and \$10.25 March 2010.

^{xxvi} Expected increases: \$8.00 October 2008

^{xxvii} Expected increases: \$9.25 May 2009.

^{xxviii} Effective April 1, 2008, and on April 1 of each subsequent year, this rate will increase by an amount corresponding to the annual increase for the preceding year in the Consumer Price Index for the city of Whitehorse.

^{xxix} The following workers receive overtime at 1 1/2 times the minimum wage after 48 hours worked in a week: (1) oil and gas workers (but not those in retail); (2) managers, supervisors, and employees employed in a confidential capacity; (3) transport (this group can average over 96 hours in two weeks); (4) primary fish and agricultural processors (but not meat); (5) flat-rate auto mechanics / auto body technicians; (6) certain professionals and their trainees; (7) IT professionals (but not employees who provide basic operational/technical support); and (8) shipbuilders and related workers (but not those in retail)

^{xxx} Expected increases: \$8.60 April 2009; \$9.20 April 2010; and \$9.65 October 2010.

^{xxxi} Expected increases: \$8.50 January 2009; \$9.00 July 2009; \$9.50 January 2010 and \$10.00 July 2010

Overtime Limits: Maximum Hours and Right to Refuse Overtime

- Most jurisdictions in Canada have some method of limiting overtime.

Table 7: Maximum Hours and Right to Refuse Overtime⁴³

	Alberta	British Columbia	Manitoba	Newfoundland and Labrador	Northwest Territories	Nunavut	Ontario	Quebec	Saskatchewan	Yukon Territory	Nova Scotia	Prince Edward Island	New Brunswick
Maximum (daily or weekly) number of hours ^{xxxii}	Yes	Yes	No	Yes	Yes	Yes	Yes	No	No	No	No	No	No
...per week	n/a	n/a	n/a	n/a	60	60	48	n/a	n/a	n/a	n/a	n/a	n/a
...per day	12	16 ^{xxxiii}	n/a	16 ^{xxxiv}	10	10	8 ^{xxxv}	n/a	n/a	n/a	n/a	n/a	n/a
Other bans on mandatory overtime	No	Yes	Yes	No	No	No	No	Yes	Yes	Yes	No	No	No
...specifics		No excessive hours	No implied right to require overtime from employee					Right to refuse overtime after 50 hours per week ^{xxxvi}	Right to refuse overtime after 44 hours per week ^{xxxvii}	Right to refuse overtime after 8 per day or 40 hours per week, for just cause in writing			

^{xxxii} Some exceptions apply. For instance, in Quebec, workers in the James Bay territory may refuse work after 60 hours per week. In other cases, certain groups of workers are exempted from these provisions, such as managerial workers in Nunavut.

^{xxxiii} In British Columbia, an 8 hour break is guaranteed between each shift, thus a maximum of 16 hours per day.

^{xxxiv} In Newfoundland and Labrador, an 8 hour break is guaranteed every 24 hours, thus a maximum of 16 hours per day.

^{xxxv} In Ontario, if the employer has established a regular workday longer than eight hours, then the absolute maximum becomes the number of hours in that day.

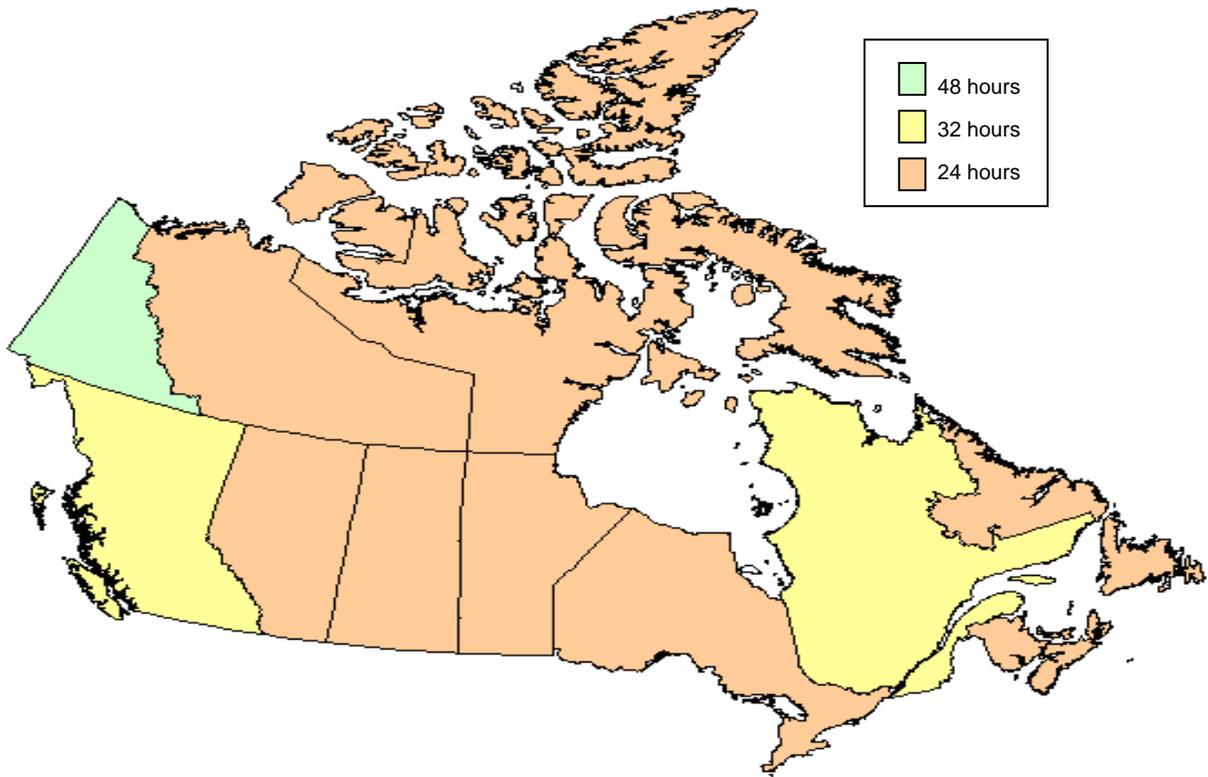
^{xxxvi} In Quebec, 60 hours per week for an employee working in an isolated area or carrying out work in the James Bay territory.

^{xxxvii} In Saskatchewan, the right to refuse overtime guaranteed except in the case of an emergency.

Regular Time Free of Work

- *In Canada*, most jurisdictions guarantee a weekly day of rest (with some exceptions in coverage).^{xxxviii} Occasionally this guarantee is made over a two or three week period, or is substituted for a guarantee of premium pay.
- *Globally*, at least 141 countries have a mandatory day of rest.

Figure 10: Minimum Length of Weekly Rest⁴⁴



^{xxxviii} Some exceptions apply. For instance, in British Columbia a weekly day of rest can be substituted with premium pay. In other cases certain groups of workers, such as agricultural or managerial workers, are excluded from coverage.

Night and Evening Wage Premiums

- *In Canada*, none of the Canadian jurisdictions guarantee night and evening wage premiums.
- *Globally* at least 55 countries guarantee these premiums.

Paid Leave and Flexibility for Adult Family Members’ Health and Other Essential Needs

Paid Leave for Dependents with a Serious Illness

- *In Canada*, within all jurisdictions those caring for a family member at risk of dying are eligible for partial wage replacement for up to 6 weeks. These “compassionate care” benefits are provided through the federal Employment Insurance program.

Box 2: Paid Leave for Dependents with a Serious Illness⁴⁵

Federal Employment Insurance: Compassionate Care Benefits	
Duration:	Maximum of 6 weeks within 26 weeks to provide care or support to a gravely ill family member at risk of dying within 26 weeks . It can be split among family members; the first claimant must serve a 2 week waiting period. Renewable.
Eligibility:	To be eligible, worker’s weekly wages must have decreased by 40% and they must have worked 600 insured hours in the last 52 weeks or since the start of their last claim. For self-employed work, premiums are not deducted; therefore, such employment is not insurable under EI. Medical certificates necessary for ill family member. Note that the definition of family member used is very expansive. See: http://www1.servicecanada.gc.ca/en/ei/types/compassionate_care.shtml#family for complete list.
Replacement Rate:	55% of average insured earnings up to a yearly maximum insurable amount of \$41,100 . If recipient works while on compassionate care benefits they can earn \$50 per week or 25% of their weekly benefits, whichever is higher. ^{xxxix}

^{xxxix} A pilot project in regions of high unemployment is testing the impacts of allowing claimants to earn \$75 or 40% of their weekly benefits, whichever is higher.

Job Protection during Leave for Dependents with a Serious Illness

- *In Canada*, while eligible citizens in all jurisdictions can apply for compassionate care wage replacement, not all jurisdictions provide job protection for compassionate care. Namely, Alberta does not make these provisions for compassionate care.

Table 8: Job Protection during Leave for Dependents with a Serious Illness^{xi46}

Jurisdiction	Duration of Paid Leave	Job Protection During Leave	Length of Job-Protected Leave	Risk of death in 26 weeks necessary for job protection
Saskatchewan	6 weeks at 55%	Yes	12 weeks	No. The family member must be suffering from a "serious illness."
Quebec	6 weeks at 55%	Yes	12 weeks. Can be extended up to 104 weeks in the case of a serious, life-threatening illness to a minor child.	No. The family member must be suffering from a "serious illness."
British Columbia	6 weeks at 55%	Yes	8 weeks	Yes
Manitoba	6 weeks at 55%	Yes	8 weeks	Yes
New Brunswick	6 weeks at 55%	Yes	8 weeks	Yes
Newfoundland and Labrador	6 weeks at 55%	Yes	8 weeks	Yes
Northwest Territories	6 weeks at 55%	Yes	8 weeks	Yes
Nova Scotia	6 weeks at 55%	Yes	8 weeks	Yes
Nunavut	6 weeks at 55%	Yes	8 weeks	Yes
Ontario	6 weeks at 55%	Yes	8 weeks	Yes
Prince Edward	6 weeks at 55%	Yes	8 weeks	Yes
Yukon Territory	6 weeks at 55%	Yes	8 weeks	Yes
Alberta	6 weeks at 55%	No	0	n/a

^{xi} For some jurisdictions, qualifying criteria include length of tenure. For instance, in Manitoba and Newfoundland and Labrador employees must have 30 days of service. In Nova Scotia and Quebec employees must have three months of service. In Saskatchewan employees must have 13 consecutive weeks of service.

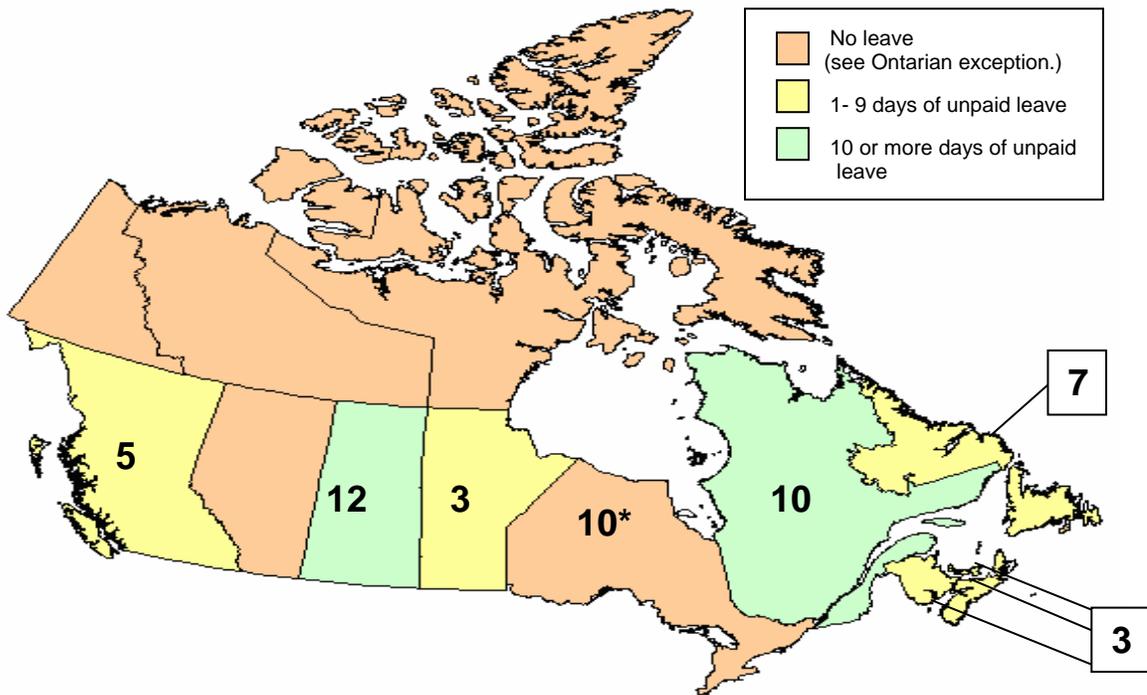
Paid Leave for Children and Family Member's Non-Life Threatening Health Needs

- *In Canada*, no province or territory provides paid leave explicitly addressing children or family member's health needs that are not life threatening.
- *Globally*, at least 56 countries provide leave explicitly addressing children's health needs. Of these, at least 39 countries provide pay.

Unpaid, Job-Protected Leave for Children's Non-Life Threatening Health Needs

- *In Canada*, most provinces offer unpaid, job-protected leave that can be used for children's non-life threatening health needs. None of the territories offer such leave, nor does Alberta.

Figure 11: Length of Leave that can be Used for Children's Health Needs, in Days⁴⁷



* In Ontario, personal emergency leave is available to employees who work for companies that employ 50 or more employees. Leave provides for up to 10 days per calendar year of unpaid, job-protected leave for employee's personal illness, injury, or medical emergency, or to attend to the death, illness, injury, medical emergency of, or urgent matter concerning, specified relatives. The requirement of 50 or more employees excludes roughly 29% of the work force. See Appendix C for more information.

Flexibility to Meet Children’s Educational Needs and Other Family Responsibilities

Leave for Family Responsibilities

- *In Canada*, most provinces offer unpaid, job-protected leave that can be used for family responsibilities. (This is the same number of days as in figure 11 above).

Reasons for Family Responsibility Leave

Table 9: Conditions for Leave for Family Responsibilities where applicable⁴⁸

British Columbia	To meet responsibilities related to the care, health or education of a child in the employee's care, or the care or health of any other member of the employee's immediate family.
Manitoba	To meet his or her family responsibilities in relation to a family member. The employer is entitled to reasonable verification and as much notice as possible.
New Brunswick	To meet responsibilities related to the health, care or education of a person in a close family relationship with the employee.
Newfoundland and Labrador	To meet family responsibilities. Employee must provide employer with a statement in writing of the nature of family responsibility when 3 or more days are taken.
Nova Scotia	Due to the sickness of a child, parent or family member or for medical, dental or other similar appointments during working hours.
Ontario An employee whose employer regularly employs 50 or more employees	Due to employee's personal illness, injury, or medical emergency, or to attend to the death, illness, injury, medical emergency of, or urgent matter concerning, specified relatives.
Prince Edward Island	To meet responsibilities related to the health or care of a person who is a member of the immediate family or extended family of the employee.
Quebec	For the care, health or education of the employee's child or the child of the employee's spouse, or because of the state of health of the employee's spouse, father, mother, brother, sister or one of the employee's grandparents.
Saskatchewan	Due to the illness or injury of the employee or illness or injury of a member of the employee's immediate family

Unpaid, Job-Protected Leave Explicitly Covering Children's Education Needs⁴⁹

- *In Canada*, New Brunswick, British Columbia, and Quebec^{xli} provide 3, 5 and 10 days of unpaid, job-protected leave, respectively, that explicitly covers children's educational needs. No other jurisdiction explicitly addresses children's educational needs in their family leave policies.

Leave for Family Events: Bereavement and Wedding Leave

- *In Canada*, paid bereavement leave is guaranteed only in Newfoundland and Labrador, Quebec and federally-regulated industries.
- *Globally*, at least 41 countries guarantee paid leave for bereavement.
- *In Canada*, most provinces and territories guarantee job protection for bereavement leave. Alberta and Nunavut do not make this guarantee and Ontario makes comparable provisions for some workers (see Appendix C).^{xlii}
- *In Canada*, Quebec is the only jurisdiction that provides leave for weddings.
- *Globally*, at least 35 countries guarantee leave for weddings. Of these at least 28 provide paid leave.

^{xli} Manitoba notes that although not explicit, under many circumstances a child's education would fit the "needs of the family." Newfoundland and Labrador notes that education may be included, as the Act simply demands the employee provide employer with a statement in writing of the nature of family responsibility when it lasts for 3 days or more.

^{xlii} In Ontario there is no guaranteed leave for funerals, however, personal emergency leave available to employees who work for companies that employ 50 or more employees. Leave provides for up to 10 days per calendar year of unpaid, job-protected personal emergency leave for employee's personal illness, injury, or medical emergency, or to attend to the death, illness, injury, medical emergency of, or urgent matter concerning, specified relatives.

Leave for Family Events: Bereavement Leave and Weddings (continued)

Table 10: Leave for Family Events⁵⁰

	Paid or Unpaid, Job-Protected Bereavement Leave	Duration of bereavement leave for Specified Family Members^{xliii}	Description of leave for weddings
Quebec	Paid	1 day paid and 4 days unpaid for death in immediate family	1 day paid for employee's wedding
	Unpaid	1 day unpaid for death in extended family	1 day unpaid for a wedding in immediate family
Newfoundland and Labrador	Paid	1 day paid and 2 days unpaid for employees with 30 days tenure	None
	Unpaid	2 days unpaid for employees with less than 30 days tenure	
Yukon Territory	Unpaid	7 days	None
Saskatchewan	Unpaid	5 days	None
Nova Scotia	Unpaid	3 days for death in immediate family 1 day for death in extended family, including siblings	None
Prince Edward Island	Unpaid	3 days for death in immediate family 1 day for death in extended family	None
New Brunswick	Unpaid	5 days	None
British Columbia	Unpaid	3 days	None
Manitoba	Unpaid	3 days	None
Northwest Territories	Unpaid	3 days, if funeral or memorial service takes place in the community in which the employee resides 7 days, if funeral or memorial service takes place outside the community in which the employee resides	None
Ontario	None ^{xliv}	None ^{xliv}	None
Alberta	None	None	None
Nunavut	None	None	None

^{xliii} “Immediate family” and “extended family” have been used here for simplicity. Each jurisdiction has its own specifications as to who is covered by bereavement leave, and the duration of such leave. Please see referenced legislation for exhaustive lists.

^{xliv} In Ontario there is no guaranteed leave for funerals, however, personal emergency leave available to employees who work for companies that employ 50 or more employees. Leave provides for up to 10 days per calendar year of unpaid, job-protected personal emergency leave for employee's personal illness, injury, or medical emergency, or to attend to the death, illness, injury, medical emergency of, or urgent matter concerning, specified relatives

^{xlv} Ibid.

Paid Leave and Flexibility for Personal Health Needs

Paid Leave for Personal Health Needs

- *In Canada*, paid sickness benefits are received through the federal Employment Insurance plan, while the right to job protection is legislated within each province or territory. Sickness benefits provide temporary income support to individuals who are unable to work due to illness, injury, or quarantine.
- *Globally*, at least 156 countries provide paid sick days for personal health needs.
- *In Canada*, paid sickness benefits are provided for 15 weeks.
- *Globally*, at least 90 countries provide paid sickness benefits for at least 26 weeks or until recovery.

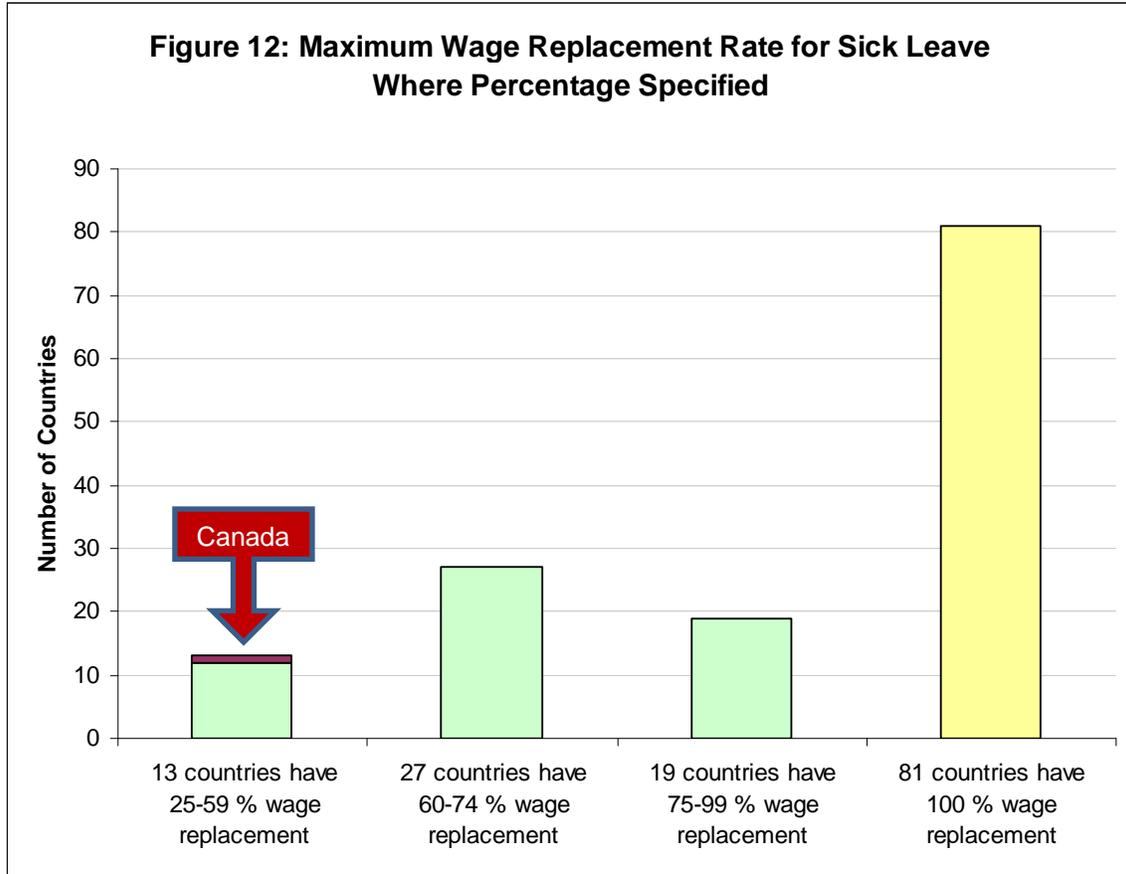
Box 3: Sick Leave Benefits in Canada⁵¹

Federal Employment Insurance: Sickness Benefits	
Duration:	15 weeks
Replacement Rate:	55% of weekly insurable earnings ^{xlvi} For self-employed work, premiums are not deducted; therefore, such employment is not insurable under EI.
Length of tenure requirement:	600 insured hours in the last 52 weeks or since start of last claim
Waiting period:	2 weeks for wage replacement to start (10 business days)
Eligibility:	Unable to work because of sickness, injury or quarantine

^{xlvi} Maximum yearly insurable earnings divided by 52.

Paid Leave for Personal Health Needs (continued)

- *In Canada*, sickness benefits are provided at a rate of 55% of an employee’s weekly insurable income.
- *Globally*, at least 127 countries provide a higher wage replacement rate for sick leave than Canada.^{xlvii}



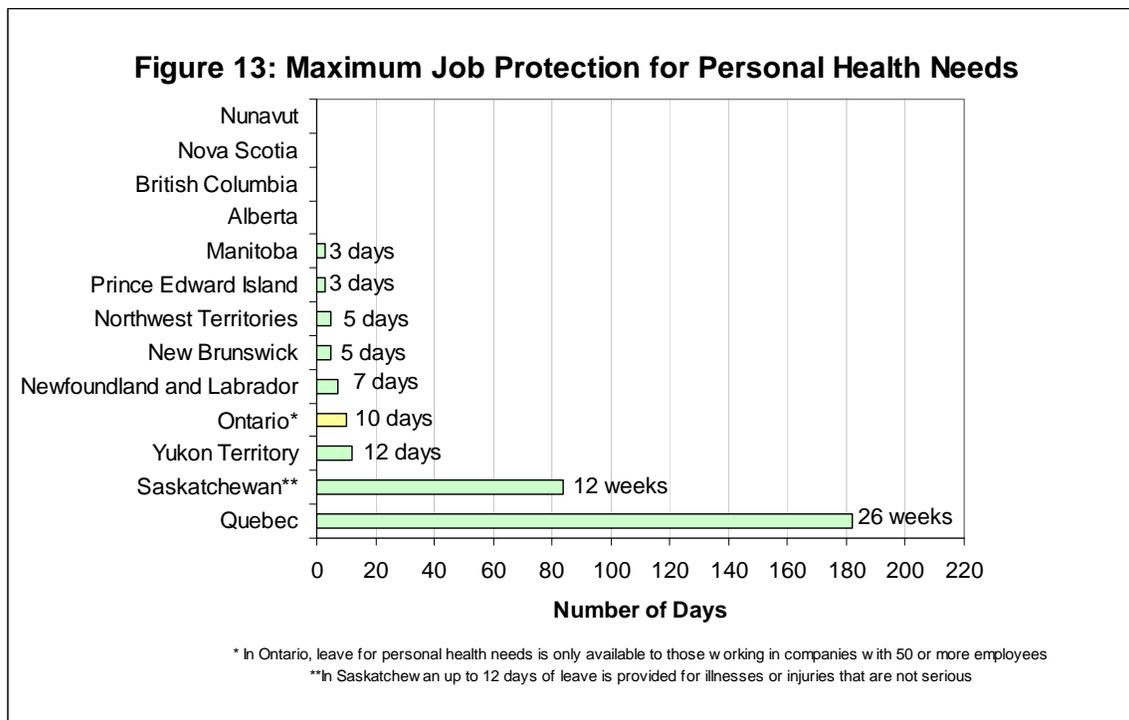
^{xlvii} This classifies the highest level of provision; countries get credit for an 100% replacement rate, if any portion of the leave pays 100%.

Source: Statistics Canada. "Employment by age, sex, type of work, class of worker and province (monthly)." Labour Force Survey, tables 282-0087 and 282-0089.

^{xlvi} If employees work while on maternity or sickness benefits, their earnings will be deducted from their benefits, dollar for dollar. If employees work while on parental benefits, they can earn \$50 per week or 25% of their weekly benefits, whichever is higher. Any monies earned above that amount will be deducted from their benefits, dollar for dollar.

Job Protection for Personal Health Needs^{xlix}

- *In Canada*, only Saskatchewan, Quebecⁱ and federally-regulated industries guarantee job protection for sick leave over 12 days.⁵²
- *In Canada*, no jurisdictions guarantee paid short term leave for personal health needs.
- *Globally*, 106 countries guarantee paid short term leave for personal health needs.^{li}
- *In Canada*, most jurisdictions guarantee only short job-protected leave for personal health needs. Ontario also guarantees this right to some employees.^{lii}⁵³



^{xlix} “Leave for personal health needs” has been used as a generic term here. Each jurisdiction uses its own terms for such leave.

ⁱ Medical control or a medical certificate is not required. The leave is for a maximum of 26 weeks. Notions of short term vs. long term are not mentioned in the legislation.

ⁱⁱ This number only includes countries that provide such leave on the first day of the condition without any waiting period. In Canada a 2 week waiting period exists for EI Sickness Benefits.

ⁱⁱⁱ In Ontario, personal emergency leave is available to employees who work for companies that employ 50 or more employees. Leave provides for up to 10 days per calendar year of unpaid, job-protected leave for employee’s personal illness, injury, or medical emergency, or to attend to the death, illness, injury, medical emergency of, or urgent matter concerning, specified relatives.

Access of Adults with Disabilities to Equal Employment Opportunities

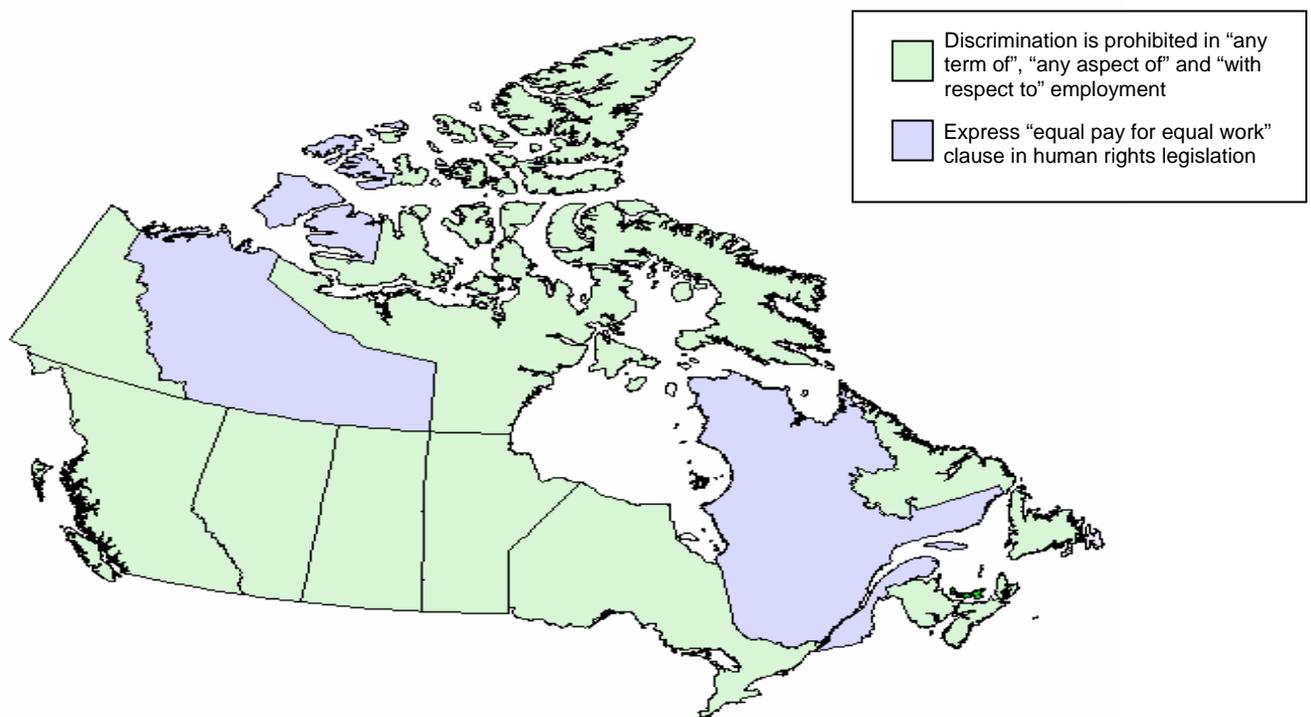
Laws Against the Discrimination of Adults with Disabilities in Employment

- *In Canada*, all provinces and territories prohibit discrimination against adults with disabilities in employment⁵⁴.
- Workers in federally regulated sectors are also protected from discrimination of adults with disabilities in employment.
- In all cases, this prohibition is found in the applicable human rights legislation, at the provincial, territorial or federal level.

Guarantee of Equal Pay and Benefits for Employees with Disabilities

- *In Canada*, all provinces and territories guarantee equal pay for equal work.
- Most *provinces* or territories prohibit discrimination against employees with disabilities in *any term or condition of* employment. The common understanding about these terms is that they include employment related processes and practices that take place at all stages of the employment process such as advertisements, interviews and application forms; transfers, promotions, pension and benefit entitlement and job environment; and lay-off, retirement and termination decisions⁵⁵.
- Quebec, the Northwest Territories and Prince Edward Island, however, expressly have an “equal pay for equal work” clause in their human rights legislation, in addition to prohibiting discrimination in employment.
- Although the wording varies from one jurisdiction to another, all human rights codes provide a basis for a complaint in the case of discrimination in pay against adults with disabilities^{liii}.

Figure 14: Guarantee of Equal Pay and Benefits for Employees with Disabilities⁵⁶

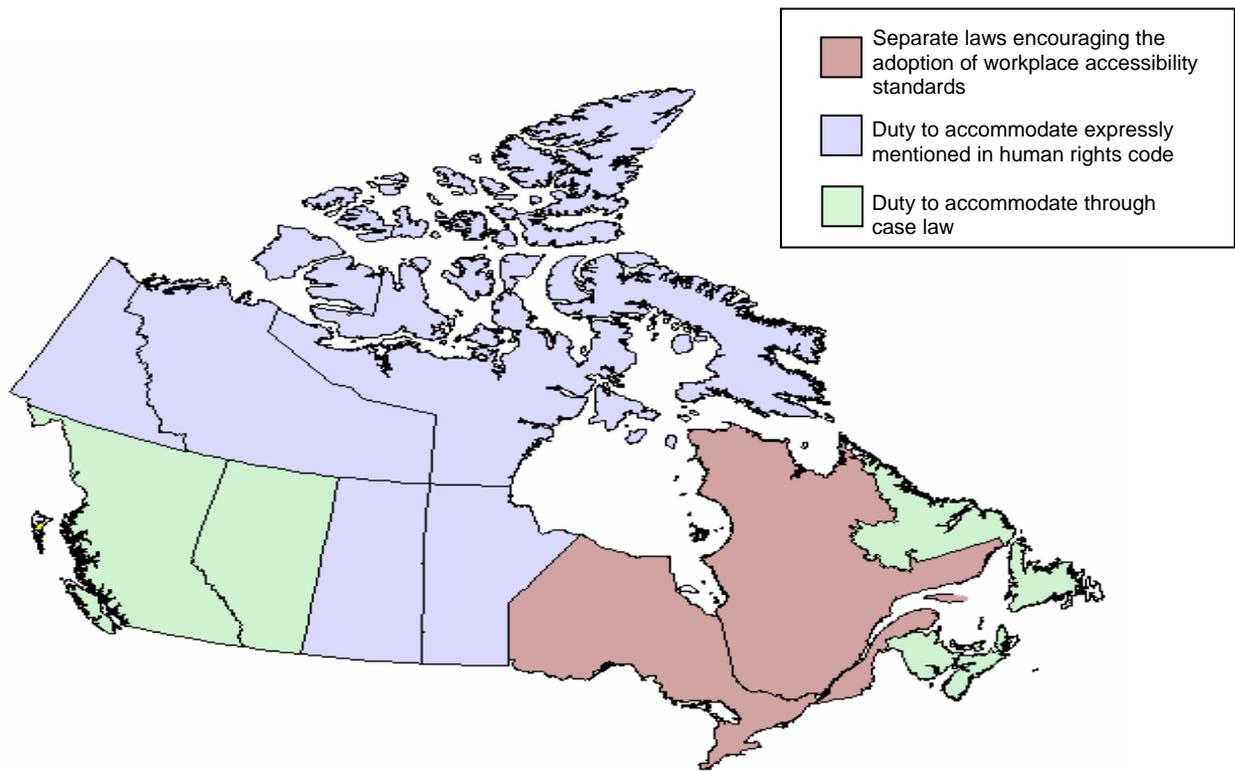


^{liii} See Appendix I for a summary of the rules of interpretation applying to Canadian human rights law.

Existence of Standards for Workplace Accessibility

- Every Canadian has the right to be accommodated in function of a physical or mental disability, to the point of undue hardship on the employer.^{liv}
- In Canada, each jurisdiction has to respect the principle of duty to accommodate because of the existing Canadian case law, which applies to all jurisdictions.
- In addition, some provinces expressly mention the duty to accommodate in their human rights legislation.
- Finally, a few provinces have laws, separate from their human rights code, which specifically target adults with disabilities by prescribing the adoption of accessibility standards to employment.

Figure 15: Existence of Standards for Workplace Accessibility^{lv57}



^{liv} The legal source of that right varies from one jurisdiction to another See Appendix G for a summary of the rule governing the hierarchy of legal norms in Canada.

^{lv} In addition to having a separate law encouraging the adoption of workplace accessibility standards, Ontario also expressly mentions the duty to accommodate in its human rights legislation. Moreover, both Ontario and Quebec are also bound by case law.

Access of Adults with Disabilities to Participate Fully in Family and Community Activities

Legislation Prohibiting Discrimination Against Adults with Disabilities

- *In Canada*, all provinces, territories and the federal government possess human rights legislation to protect adults with disabilities. For each jurisdiction, we have surveyed the areas in which discrimination is prohibited on the basis of disability. We then grouped all of these areas under eight (8) broad categories, listed in the table below.^{lvi}
- For comparison purposes, we have only surveyed the areas protected by the applicable human rights legislation, *as explicitly written in the law*^{lvii}. We were not able to take into account protections provided by case law.

Table 11: Areas in which Discrimination on the Basis of Disability is explicitly Prohibited: Provinces, Territories and Federal Government⁵⁸.

	Alberta	British Columbia	Manitoba	New Brunswick	Newfoundland and Labrador	Nova Scotia	Ontario	Prince Edward Island	Quebec	Saskatchewan	Northwest Territories	Yukon	Nunavut	Federal
1- Publications, notices, signs, statements, etc.	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓		✓	✓
2- Goods, accommodation, services, facilities. ^{lviii}	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
3- Employment ^{lix}	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
4- Membership in vocational associations ^{lx}	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
5- Contracts							✓		✓	✓		✓	✓	
6- Purchase or sale of property		✓	✓					✓		✓		✓		
7- Protection of complainant	✓		✓	✓	✓		✓				✓		✓	
8- Harassment			✓		✓				✓		✓		✓	✓

^{lvi} For each category, a jurisdiction was considered to provide protection against discrimination if *at least one* of the areas listed was contained in the applicable human rights legislation. For example, if a province only prohibits discrimination in access to accommodation, but not to goods, services, facilities, etc., that province was still considered as providing protection against discrimination for the entire category.

^{lvii} See Appendix H for a summary of the rules of interpretation applying to Canadian Human Rights law.

^{lviii} Includes: places where the public is normally admitted, occupation of commercial or dwelling units, tenancy.

^{lix} Includes: advertisements for employment, applications, use of employment agencies.

^{lx} E.g. trade unions, employers' organizations, etc.

Building Accessibility Standards for Adults with Disabilities

- *In Canada*, the regulation of design and construction of new buildings falls under provincial and territorial jurisdiction. While some provinces have their own codes, most provinces adopt the National Building Code of Canada or a modified version.⁵⁹
- The National Building Code of Canada “sets out technical provisions for the design and construction of new buildings. It also applies to the alteration, change of use and demolition of existing buildings”⁶⁰.
- One of the stated objectives of this Code is the accessibility of buildings^{lxi}. As such, the Code shall “limit the probability that, as a result of the design or construction of the building, a person with a physical or sensory limitation will be unacceptably impeded from accessing or using the building or its facilities.”⁶¹
- For the alteration of buildings, provinces and territories decide which changes will require the implementation of accessibility standards, leading to variability in standards.
- In addition to the standards set out by the National Building Code of Canada, Newfoundland and Labrador, Nova Scotia and Quebec have adopted separate laws to encourage the improvement of building accessibility for adults with disabilities.

Figure 16: Building Accessibility for Adults with Disabilities⁶²



^{lxi} These accessibility standards apply to all buildings except: a. houses, including semi-detached houses, duplexes, triplexes, town houses, row houses and boarding houses; b. medium and low-hazard industrial occupancies and c. buildings which are not intended to be occupied on a daily or full time basis. See: National Building Code of Canada, Division B, Part 3, Section 3.8.1.1.

Access of Seniors to Equal Employment Opportunities

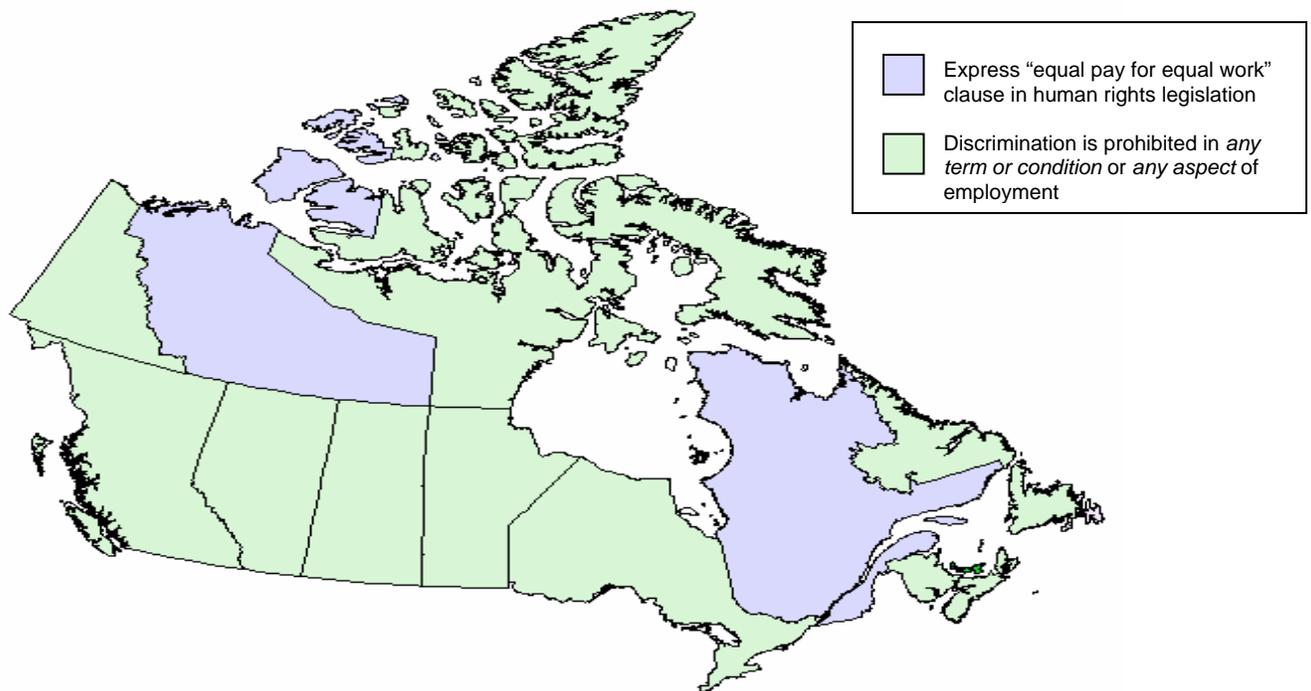
Laws Against the Discrimination of Seniors in Employment

- *In Canada*, as of July 1st 2009, all provinces and territories⁶³ will prohibit the discrimination on the basis of age in hiring or firing^{lxii}.

Guarantee of Equal Pay and Benefits for Seniors

- *In Canada*, as of July 1st 2009, most provinces will prohibit discrimination on the basis of age in *any term or condition* or *any aspect* of employment, which is interpreted as including wages and benefits. Some provinces, however, expressly have an “equal pay for equal work” clause in their human rights legislation.

Figure 17: Guarantee of Equal Pay and Benefits for Seniors⁶⁴



^{lxii} In the case of workers in federally regulated industries, discrimination in employment on the basis of age is prohibited *until the person has reached the normal age of retirement*. See p. 51 for more information on mandatory retirement.

Laws Prohibiting Mandatory Retirement

- *In Canada*, laws regarding mandatory retirement were, until recently, very different from one jurisdiction to another.
- Mandatory retirement is a constraint for seniors who wish to remain active in the labour force after they have reached the normal age of retirement, usually 65 in Canada. As such, it compromises access of seniors to equal employment opportunities.
- This practice has traditionally been permitted because of an upper age limit on the prohibition against discrimination in employment based on age found in provincial or territorial human rights codes. However, by July 1st 2009, all provinces and territories will have eliminated the maximum age limits in their human rights codes.⁶⁵
- Nonetheless, individuals working in federally regulated areas are not protected from mandatory retirement. See appendix A for more details.

Access of Seniors to Participate Fully in Family and Community Activities

Laws Against the Discrimination of Seniors (in general)

- *In Canada*, all provinces, territories and the federal government possess human rights legislation to protect seniors. For each jurisdiction, we have surveyed the areas in which discrimination is prohibited on the basis of age. We then grouped all of these areas under eight (8) broad categories, listed in the table below.^{lxiii}
- For comparison purposes, we have only surveyed the areas protected by the applicable human rights legislation, *as explicitly written in the law*. We were not able to take into account protections provided by case law.

Table 12: Areas in which Discrimination on the Basis of Age is Explicitly Prohibited: Provinces, Territories and Federal Government⁶⁶.

	Alberta	British Columbia	Manitoba	New Brunswick	Newfoundland and Labrador	Nova Scotia	Ontario	Prince Edward Island	Quebec	Saskatchewan	Northwest Territories	Yukon	Nunavut	Federal workers
1- Publications, notices, signs, statements, etc.	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓		✓	✓
2- Goods, accommodation, services, facilities. ^{lxiv}		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
3- Employment ^{lxv}	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
4- Membership in vocational associations ^{lxvi}	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
5- Contracts			✓				✓		✓	✓		✓	✓	
6- Purchase or sale of property				✓		✓		✓		✓		✓		
7- Protection of complainant	✓		✓	✓	✓		✓				✓		✓	
8- Harassment			✓		✓				✓		✓		✓	✓

^{lxiii} For each category, a jurisdiction was considered to provide protection against discrimination if *at least one* of the areas listed was contained in the applicable human rights legislation. For example, if a province only prohibits discrimination in access to accommodation, but not to goods, services, facilities, etc., that province was still considered as providing protection against discrimination for the entire category.

^{lxiv} Includes: places where the public is normally admitted, occupation of commercial or dwelling units, tenancy.

^{lxv} Includes: advertisements for employment, applications, use of employment agencies.

^{lxvi} E.g. trade unions, employers' organizations, etc.

Appendix A: Provisions for Workers in Federally-Regulated Industries

As mentioned earlier, roughly 10% of Canadians are covered by the Federal Labour Code rather than provincial or territorial labour standards, due to the sector in which they work. For example, marine shipping services; air transportation; railways; road transportation; canals, pipelines tunnels and bridges; telephone, telegraph and cable systems; radio and television broadcasting; and banks are all areas regulated by the federal government.⁶⁷ The federal human rights legislation that applies to the private realm also covers this population.

This appendix outlines the provisions for workers in federally-regulated industries and places these provisions in a national context.

Paid Leave and Job Protection around Childbearing

Paid Leave around Childbearing: by Gender

- As in much of Canada, within federally-regulated industries, the maximum paid leave for women (maternity and parental) is 50 weeks, if their partner does not take any parental leave. The maximum paid leave for men is 35 weeks, if their partner does not take any parental leave.⁶⁸

Job Protection around Childbearing: by Gender

- Within federally-regulated industries, birth mothers can take a maximum of 52 weeks of job-protected leave, while their partners can take a maximum of 37 weeks.^{lxvii} Similar provisions are found in the majority of provinces and territories.

Job Protection around Childbearing: Tenure Requirements

- Within federally-regulated industries, workers must have six months tenure to be eligible for job protection during maternity and parental leave. This places federally-regulated workers in the middle of the spectrum of Canadian tenure requirements; while five jurisdictions require a year's tenure, three have no tenure requirements.

Job Protection around Childbearing: by Family

- Within federally-regulated industries, the maximum job-protected leave a family can take for the birth of a biological child is 52 weeks, assuming they take the leave within the required period.^{lxviii} For an adopted child however, the maximum job-protected leave is 37 weeks.⁶⁹

^{lxvii} This excludes special provisions made for difficult pregnancies, where women, for reasons related to the birth or termination of pregnancy, are unable to return to work when the leave ends.

^{lxviii} This excludes special provisions made for difficult pregnancies and other exceptional cases. Parents may be eligible to take additional time off if the child is gravely ill or if they experience a difficult pregnancy. Also women are sometimes eligible to take a leave of absence with pay if they feel, and can substantiate, that their work endangers their pregnancy.

Breastfeeding Breaks

- As in the rest of Canada, paid breastfeeding breaks are not guaranteed through legislation in federally-regulated industries.
- Within federally-regulated industries, discrimination in employment on the grounds of sex and pregnancy is explicitly prohibited.

Working Time

Paid Vacation

- Within federally-regulated industries, paid annual vacation is not guaranteed for employees with less than one year's service.
- As in most of Canada, after one year's service full time workers in federally-regulated industries are guaranteed two weeks of paid annual vacation.
- Within federally-regulated industries, annual leave increases to three weeks after six years' service.

Overtime Hours

- As in much of Canada, overtime premiums are guaranteed after 40 hours worked per week or 8 hours worked per day in federally-regulated industries.

Overtime Rates

- As in much of Canada, federally-regulated workers are guaranteed 150% of their regular wages for overtime hours.

Overtime Limits

- Federally-regulated industries set a 48 hour maximum on the number of hours worked per week. This provision gives federally-regulated workers one of the strongest limits of overtime work in Canada.

Minimum Wage

- Federally-regulated employees are guaranteed the same minimum wage as that of the province or territory in which they are employed.

Regular Time Free of Work

- As in the rest of Canada, federally-regulated workers are guaranteed a weekly day of rest.

Family Needs

Job Protection during Leave for Dependents with a Serious Illness

- As in much of Canada, federally-regulated workers are guaranteed eight weeks of job-protected leave to care for dependents with serious illnesses.

Leave for Family Events: bereavement leave and wedding leave

- Federally-regulated workers are guaranteed a paid bereavement leave of 3 days for a death in immediate family. Only a few other jurisdictions guarantee pay during bereavement leave.

Leave for Family Responsibilities

- Federally-regulated workers are not guaranteed leave for incidental family responsibilities. Most Canadian jurisdictions guarantee some such leave.

Job Protection for Personal Health Needs^{lxix}

- Federally-regulated workers are guaranteed 26 weeks of job protection for sick leave.⁷⁰ While Canadians in all jurisdictions can apply for sickness wage replacement, very few jurisdictions guarantee the extended job protection found in federally-regulated industries.

Access of Adults with Disabilities to Equal Employment Opportunities

Laws Against the Discrimination of Adults with Disabilities in Employment

- As in the rest of Canada, it is prohibited to discriminate against adults with disabilities in hiring and firing in federally-regulated industries.⁷¹

Guarantee of Equal Pay and Benefits for Employees with Disabilities

- Within federally-regulated industries, like in most provinces and territories, discrimination is prohibited *in relation to an employee* on the basis of disability status.⁷² There is no express “equal pay for equal work” clause in the human rights legislation.

Existence of Standards for Workplace Accessibility

- As in the rest of Canada, employers in federally-regulated industries have the duty to accommodate adults with disabilities in the workplace, according to case law⁷³. The duty to accommodate is not expressly mentioned in the human rights code, nor is there a separate law encouraging the adoption of workplace accessibility standards.

^{lxix} “Leave for personal health needs” has been used as a generic term here. Each jurisdiction uses its own terms.

Access of Adults with Disabilities to Participate Fully in Family and Community Activities

Legislation Prohibiting Discrimination Against Adults with Disabilities

- The Canadian Human Rights act prohibits discrimination against adults with disabilities in the following areas: goods, services, facilities or accommodation; commercial premises or residential accommodation; employment; employment applications, advertisements and employee organizations. Discriminatory policies or practices, the publication of discriminatory notices, hate messages and harassment are also prohibited⁷⁴.

Access of Seniors to Equal Employment Opportunities

Laws Against the Discrimination of Seniors in Employment

- As in the rest of Canada, it is prohibited to discriminate against seniors in employment in federally-regulated industries. However, discrimination in employment on the basis of age is only prohibited until the person has reached the normal age of retirement⁷⁵. See below for more information on mandatory retirement.

Guarantee of Equal Pay and Benefits for Seniors

- Within federally-regulated industries, like in most provinces and territories, discrimination is prohibited *in relation to an employee*. However, discrimination in employment on the basis of age is only prohibited until the person has reached the normal age of retirement⁷⁶. See below for more information on mandatory retirement.

Laws Prohibiting Mandatory Retirement

- Employees in federally-regulated industries, subject to the Canadian Human Rights act, are not protected from mandatory retirement. According to section 15(1), “It is not a discriminatory practice if employment of an individual is refused or terminated because that individual [...] has reached the maximum age, that applies to that employment by law or under regulations, which may be made by the Governor in Council for the purposes of this paragraph” or if “an individual’s employment is terminated because that individual has reached the normal age of retirement for employees working in positions similar to the position of that individual”⁷⁷.

Access of Seniors to Participate Fully in Family and Community Activities

Legislation Prohibiting Discrimination Against Seniors

- The Canadian Human Rights act prohibits discrimination on the basis of age as it relates to: goods, services, facilities or accommodation; commercial premises or residential accommodation; employment; employment applications, employee organizations and advertisements. Similarly, discriminatory policies or practices, the publication of

discriminatory notices, hate messages and harassment are prohibited. Discrimination in employment and organizations is not prohibited after the normal age of retirement⁷⁸.

Appendix B: Employment Insurance Coverage

Employment Insurance Eligibility

- Employment Insurance eligibility is determined by the total number of insurable hours worked. To be eligible for sickness, maternity, parental and compassionate care benefits, one must hold a minimum of 600 insurable hours within the qualifying period, which is usually the past 52 week period. Self-employment is not included in insurable income.⁷⁹
- In 2006, 76.5% of mothers with a child 12 months or younger had insurable income.⁸⁰ Women without insurable income include those who are self-employed and those unemployed.⁸¹ Maternity or parental benefits were received by 63.8% of new mothers, which leaves a 12.7% gap between the number of women who had insurable income and those who received benefits.⁸² The gap is made up of women who did not qualify for benefits or did not claim them. While some progress has been made to ensure that families with more than one child are eligible for benefits, a negative correlation remains between the number of children per family and benefit eligibility.⁸³

Employment Insurance Benefits

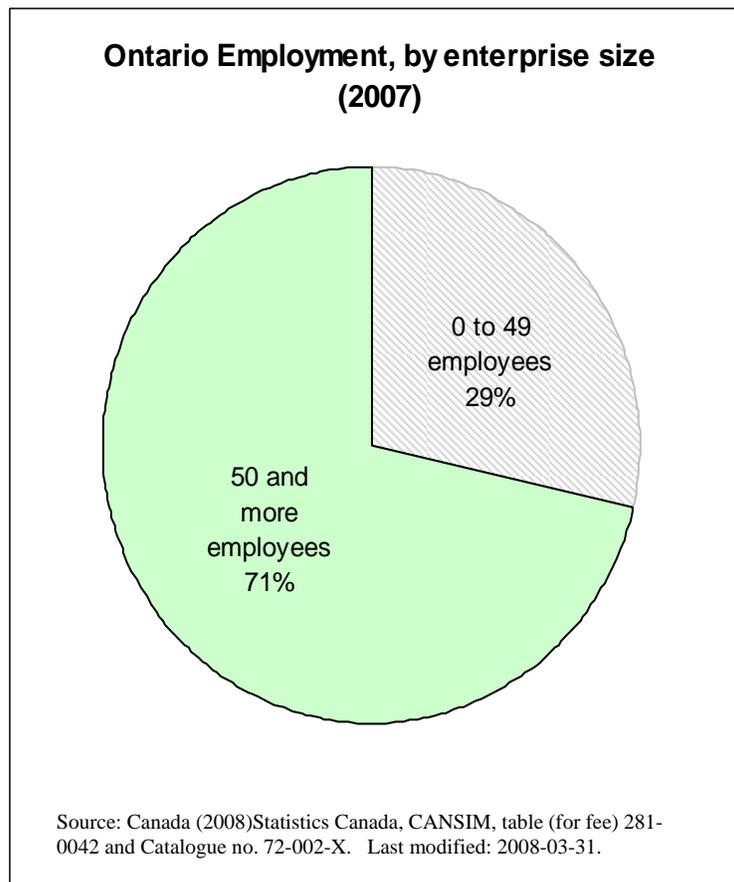
- For most Canadians, sickness, maternity, parental and compassionate care benefit rates are based on the 26 weeks of earnings prior to the claim.^{lxx} Total insurable earnings are divided by a set divisor^{lxxi} or the number of weeks worked in the past 26 weeks, whichever is higher. This number is then multiplied by 55%.⁸⁴ If workers have reduced their hours prior to their claims these part time weeks will be included in the calculation and thus affect their benefit level. This becomes an issue when workers reduce their hours before making a claim due to their, or their family member's, sickness or pregnancy.
- There is a two week waiting period for sickness, maternity, parental and compassionate care benefits after the date of the claim.
- Summarizing two studies on the gendered impacts of EI's eligibility and replacement rules, Townson and Hayes note that the system's implicit assumption of a 35 hour work week disadvantages women, who are more likely to be in non-standard or part-time jobs.⁸⁵ Furthermore, the system of eligibility tends "to exclude the most disadvantaged women."⁸⁶

^{lxx} For those living in one of the 23 participating economic regions, weekly benefit rates are based on the best 14 weeks of insurable earnings over the last 52 weeks of work.

^{lxxi} This divisor is based on the regional unemployment rate; for more details, see Service Canada. "Employment Insurance (EI) and Regular Benefits" <http://www.hrsdc.gc.ca/en/ei/types/regular.shtml#calculate>

Appendix C: Ontario Coverage for Family Responsibility Leave

- In Ontario, personal emergency leave is available to employees who work for companies that employ 50 or more employees. Leave provides for up to 10 days per calendar year of unpaid, job-protected leave for employee's personal illness, injury, or medical emergency, or to attend to the death, illness, injury, medical emergency of, or urgent matter concerning, specified relatives.⁸⁷



Appendix D: Human Rights Commissions and Tribunals

Administrative Commissions and Tribunals

Often, administrative agencies will perform multiple functions such as investigating, prosecuting and adjudicating claims. To ensure fairness, each of these functions must be kept separate. As such, the agency will often have a separate tribunal to carry out the adjudicative function.

The human rights tribunals throughout Canada are the adjudicative arms of the human rights commissions. While commissions are mandated to hear and investigate human rights complaints and set human rights policy, the function of the tribunal is to render decisions on human rights issues.

The procedure for filing a human rights complaint is largely the same across Canada. The human rights commission will receive the complaint and begin an investigation. They will attempt to have the two parties settle the matter through mediation. If this does not succeed and the commission feels there is adequate evidence, they may refer the case to the human right tribunal (even in situations where the tribunal is a separate organization).

The tribunals are created by statute and follow procedures similar to those of courts. They will hear evidence from both sides and render a decision along with a sanction if they have determined there has been discrimination. In some cases, legislation allows the commission to set guidelines for the tribunal. For example, the guidelines laid out by the Canadian Human Rights Commission are binding on the Canada Human Rights Tribunal. These guidelines dictate how the tribunal is to interpret the *Human Rights Act* in specific classes of cases.⁸⁸

How Administrative Tribunals Use Precedent

Tribunal members are not required to follow previous tribunal decisions though they may have an interest in maintaining a consistent and predictable pattern of rulings. “Power to vary agency decisions to reflect current facts is, indeed, a flexible power not possessed by courts.”⁸⁹

Administrative tribunals are required to follow the decisions of upper courts, particularly any Supreme Court cases concerning their area of expertise. In the situation of breastfeeding in the workplace, the Supreme Court case of *Brooks v. Canada Safeway Ltd.* decisively concluded that sex discrimination includes discrimination based on pregnancy. The human rights tribunals have further expanded on this to hold that sex discrimination also includes discrimination based on breastfeeding. This will be examined in more detailed below.

Human Rights Commissions and Policy

All administrative agencies have the authority to make policy. While the agencies can make policy, that policy is not technically binding on the agency and, unlike legislation, policy can be amended or terminated by the agency quite quickly. This is to ensure that all decision making by the agency is unfettered.

However, in practice, most tribunals will follow their own policy.⁹⁰ There are several reasons for this. As mentioned above, it is in the interest of the agencies to create consistency in their decisions, and policy presents a means of doing so. The policy statements “give the affected public an opportunity to have some view in advance of how matters are likely to be treated in the light of some of the administrative agency’s announced policy statements, thus saving public and private time and money while creating certainty and continuity.”⁹¹ As such, a tribunal will usually follow its own policy unless it can be shown that the facts of the case before it are not consistent with the fact scenario envisioned in the policy statement.

Binding Guidelines

Certain human rights commissions have enacting legislation that specifically allows them to make guidelines concerning how the tribunal is to interpret their respective human rights codes. The Canadian Human Rights Commission, the Ontario Human Rights Commission and the Manitoba Human Rights Commission all have such legislations.⁹² According to the legislation, the guidelines issues by the Canadian Human Rights Commission are binding. Once the Commission has issued guidelines, the Canadian Human Rights Tribunal is obligated to follow those guidelines. There is no mention in the Ontario or Manitoba legislation as to whether their guidelines are binding. But, given that there is no specific mention of the guidelines being binding, it seems likely that they would be treated as regular policy, that is not binding but generally followed in practice as previously described.

An examination of the guidelines issued by the Canadian Human Rights Commission reveals that there are no guidelines dealing with pregnancy or breastfeeding. The Tribunal would then rely on any policy statements regarding breastfeeding.

Appendix E: How Canadian Human Rights Tribunals are Interpreting Policy on Breastfeeding Breaks

There is no mention of human rights commission policy on breastfeeding in any of the cases that have been heard before Canadian human rights tribunals to present. Instead of using the policy, the tribunals are building on previous case law to expand what is included under discrimination based on sex. In the 1989 case of *Brooks v. Canada Safeway Ltd.*, the Supreme Court of Canada decided that discrimination on the basis of pregnancy is discrimination on the basis of sex. Discrimination on the basis of pregnancy is a form of sex discrimination because only women have the capacity to become pregnant. This expanded the previous definition of discrimination on the basis of sex.

“Combining paid work with motherhood and accommodating the childbearing needs of working women are ever-increasing imperatives. That those who bear children and benefit society as a whole thereby should not be economically or socially disadvantaged seems to bespeak the obvious. It is only women who bear children; no man can become pregnant. As I argued earlier, it is unfair to impose all of the costs of pregnancy upon one half of the population. It is difficult to conceive that distinctions or discriminations based upon pregnancy could ever be regarded as other than discrimination based upon sex, or that restrictive statutory conditions applicable only to pregnant women did not discriminate against them as women”.⁹³

Next, the British Columbia Human Rights Tribunal in *Poirier v. British Columbia (Ministry of Municipal Affairs, Recreation and Housing)*, further expanded discrimination based on sex to include not only pregnancy but also breastfeeding. In the decision, the Tribunal explained that prior to *Poirier*, there had been no cases dealing with breastfeeding in the workplace and so *Poirier* sets the precedent for future cases. Indeed, the subsequent cases do follow the principles set out in *Poirier*. After quoting *Brooks* extensively, the BC Human Rights Tribunal states that: “the same reasoning applies to breast-feeding. The capacity to breast-feed is unique to the female gender. I conclude therefore that discrimination on the basis that a woman is breast-feeding is a form of sex discrimination.”⁹⁴

In Alberta, *Brooks* and *Poirier* were relied upon to find for the grievor, Doris Degagne, in *Carewest v. The Health Sciences Association of Alberta (Paramedical Professional)*. The Tribunal used the precedent to determine that: “breastfeeding is a choice that only a woman can make at birth but once made, benefits the woman, her child and society as a whole. Breastfeeding in my view is as intimately connected to child birth as pregnancy is to child birth and should be safeguarded in the same way.”⁹⁵ More recently in *Cole v. Bell Canada*, the Canadian Human Rights Tribunal again relied on *Brooks* and *Poirier* and used their expanded definition of sex discrimination. This case was decided 10 years after *Poirier*, which suggests that tribunals are choosing to follow precedent for women seeking the right to breastfeed in the workplace. The consistency in the case law also suggests that it can be relied upon by Canadians seeking to have their rights upheld.

Appendix F: Definition of Family⁹⁶

For Compassionate Care Leave

All provinces and territories that offer job protection during compassionate care leave explicitly or functionally include an employee's spouse or partner, children, and parents in the definition of a family member. Most provinces and territories also include extended family, step-relations, foster-relations and in-laws. PEI and Quebec have the most limited definition of family, as they do not explicitly include aunts and uncles, and foster children and foster parents in their definitions nor do they have a general caveat for their functional inclusion.

For Bereavement Leave

All provinces and territories that offer bereavement leave explicitly include an employee's spouse, siblings, children or grandchildren and parents or grandparents in the definition of a family member. Manitoba and Northwest Territories have the most expansive definitions of family in respect to step-relations, foster-relations or in-laws eligible for family leave.

For Family Leave (or, in some cases, sick leave or emergency leave)

All provinces that offer family leave explicitly or functionally include an employee's spouse, children, parents and siblings in the definition of a family member. Grandchildren and grandparents are explicitly mentioned in most provinces. Nova Scotia, Ontario and Manitoba have the most expansive definitions of family in respect to step-relations, foster-relations or in-laws eligible for family leave.

Appendix G: Rules of Interpretation Applying to Canadian Human Rights Law

Given its status in Canadian law, human rights legislation is intended to be read purposively – that is in light of the purpose and effect of such legislation. Certain rules of interpretation apply to human rights legislation and must be considered by the courts whenever they approach a question of discrimination. Human rights legislation is given a liberal and purposive interpretation. Protected rights receive a broad interpretation, while exceptions and defences are narrowly construed. In responding to general terms and concepts, the approach is organic and flexible. The key provisions of the legislation are adapted not only to changing social conditions⁹⁷ but also to evolving conceptions of human rights.

In following this theory, Canadian courts have determined that the principles developed in the various laws on human rights are essentially the same. Mere differences in terminology do not support a conclusion that there are fundamental differences in the objectives of human rights statutes⁹⁸. The courts give broad meaning to the interpretations made of similar provisions in other laws. The Supreme Court has ruled that the interpretation of such laws should be consistent even where the wording is not identical, unless there is a specific provision indicating the clear desire of a provincial legislature to assign a different orientation, protection or goal to a particular provision.

Appendix H: Rules Governing Hierarchy of Legal Norms in Canada

Most legal systems have an established hierarchy of legal norms. Canada is no different. As a principally common law country, constitutional law takes precedence over statutory law which itself normally takes precedence over common law rules and principles⁹⁹. In this hierarchy, the legislator is at the top and not the courts.¹⁰⁰ At the same time, all legislation must accord with the Charter and other human rights legislation or it may risk being struck down (of no further force and effect) by the courts as unconstitutional. In Canada, this is the generally recognized hierarchy of authority:

1-The Constitution, 2-Human rights legislation, 3-Other legislation, 4-Regulations, 5-Case law from higher courts, 6-Other case law, 7-Treaties / International Law, 8-Doctrine^{lxxii}

Generally, a judge will give more weight to the top of the hierarchy. It is clear from Supreme Court decisions that the place of human rights legislation in this hierarchy and its fundamental and quasi-constitutional nature means that it prevails over other, more ordinary, legislation¹⁰¹.

^{lxxii} Note that the civil law system in Quebec may place slightly more emphasis on doctrine than the common law provinces.

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- ⁹² *Canadian Human Rights Act*, s. 27. *Ontario Human Rights Code*, s. 30. *Manitoba Human Rights Code*, s. 5.
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