

**ARTICLE 37**  
**MATERNITY AND PARENTAL LEAVE WITHOUT PAY**

**37.01 Maternity and Parental Leave Without Pay**

- (a) An employee who becomes pregnant shall, upon request, be granted maternity leave without pay for a period beginning before, on or after the termination date of pregnancy and ending no later than **eighteen (18)** weeks after the termination date of pregnancy.
- (b) Where an employee has or will have actual care and custody of a newborn child, (including the new-born child of a common-law spouse) commences legal proceedings to adopt a child or obtains an order under the laws of a province for the adoption of a child, the employee shall be granted parental leave without pay upon request for a single period of up to thirty seven (37) consecutive weeks in the fifty two (52) week period commencing on the day on which the child comes into the employee's care.
- (c) Notwithstanding paragraphs (a) and (b):
  - (i) where the employee's child is hospitalized and the employee has not yet proceeded on maternity or parental leave without pay, or
  - (ii) where the employee has proceeded on maternity and/or parental leave without pay and then returns to work for all or part of the period during which his or her child is hospitalized,

the period of maternity and/or parental leave without pay specified in the original leave request may be extended by a period equal to the child's hospitalization during which the employee was not on maternity and/or parental leave without pay (to a maximum of **eighteen (18)** weeks for maternity leave). However the extension shall end not later than one hundred and four (104) weeks after the termination date of pregnancy or the day the child comes into the employee's care.
- (d) The Agency may require an employee to submit a medical certificate certifying pregnancy, or submit a birth certificate or proof of adoption.
- (e) An employee shall inform the Agency in writing of his/her plans for taking maternity and/or parental leave without pay to cover the absence from work at least four (4) weeks in advance of the initial date of continuous leave of absence, unless there is a valid reason why the notice cannot be given.
- (f) Leave granted under this clause shall count for the calculation of "continuous employment" for the purpose of calculating severance pay and "service" for the purpose of calculating vacation leave. Time spent on such leave shall count for pay increment purposes.

- (g) An employee who has not commenced maternity leave without pay may elect to:
  - (i) use earned vacation and compensatory leave credits up to and beyond the date that her pregnancy terminates;
  - (ii) use her sick leave credits up to and beyond the date that her pregnancy terminates, subject to the provisions set out in Article 33 Sick Leave With Pay. For purposes of this subparagraph, the terms "illness" or "injury" used in Article 33, Sick Leave With Pay, shall include medical disability related to pregnancy.
- (h) The Agency may:
  - (i) defer the commencement of parental leave without pay at the request of the employee;
  - (ii) grant the employee parental leave without pay with less than four (4) weeks' notice.

### **37.02 Maternity And/Or Parental Allowance**

- (a) An employee who has been granted maternity and/or parental leave without pay, shall be paid an allowance in accordance with the terms of the Supplemental Unemployment Benefit (SUB) Plan described below providing he or she:
  - (i) has completed six (6) months of continuous employment before the commencement of the leave,
  - (ii) provides the Agency with proof of application for and receipt of **maternity, parental, paternity or adoption** benefits in accordance with the **Employment Insurance Plan or the Quebec Parental Insurance Plan in respect of insurable employment with the Employer**, and
  - (iii) signed an agreement with the Agency stating that he or she will return to work following the approved leave period (unless modified by a period of other approved leave) for a period equal to that for which an allowance was paid.
- (b) Should an employee fail to return to work or fail to work the period specified in subsection (a) (iii), the employee shall repay to the Agency on a pro-rata basis as follows:

[allowance received]	X	[remaining period to be worked following return to work]
		[total period to be worked as specified in (a)(iii)]

- (c) The repayment provided for in (b) will not apply in situations of:
- (i) death;
  - (ii) lay-off;
  - (iii) early termination due to lack of work or discontinuance of a function of a specified period of employment that would have been sufficient to meet the obligations specified in section (a)(iii);
  - (iv) the end of a specified period of employment if the employee is rehired by the Agency within ninety (90) days following the end of the specified period of employment, and who fulfills the obligations specified in section (a)(iii);
  - (v) having become disabled as defined in the *Public Service Superannuation Act*; or
  - (vi) the employee taking a position with an organization listed in Schedule I of the *Public Service Labour Relations Act* that fulfills the obligations specified in section (a)(iii).
- (d) For the purpose of sections (a)(iii) and (b), periods of leave with pay shall count as time worked. Periods of leave without pay during employees return to work will not be counted as time worked but shall interrupt the period referred to in section (a) (iii) without activating the recovery provisions described in clause (b).
- (e) Maternity or Parental Allowance payments made in accordance with the SUB Plan will consist of the following:
- (i) Where the employee is subject to a two weeks waiting period before receiving Employment Insurance **maternity and parental** benefits, ninety three percent (93%) of his/her weekly rate of pay for each week, less any other monies earned during this period,
  - (ii) For each week the employee receives a maternity, **parental, adoption or paternity** benefits under **the Employment Insurance Plan or the Quebec Parental Insurance Plan, he/she is eligible to receive** the difference between the gross weekly amount of benefits payable and ninety three percent (93%) of his/her weekly rate of pay for each week, less any other monies earned during this period which may result in a

decrease in benefits under the **Employment Insurance Plan or the Quebec Parental Insurance Plan.**

- (iii) **where an employee has received the full eighteen (18) weeks of maternity benefit and the full thirty-two (32) weeks of parental benefit under the Quebec Parental Insurance Plan and thereafter remains on parental leave without pay, she is eligible to receive a further parental allowance for a period of two (2) weeks, ninety-three per cent (93%) of her weekly rate of pay for each week, less any other monies earned during this period.**
- (f) At the employee's request, the payment referred to in subsection (e)(i) will be estimated and advanced to the employee. Adjustments will be made once the employee provides proof of receipt of **maternity, parental, paternity or adoption benefits under EI or QPIP plans.**
- (g) The maternity or parental allowance to which an employee is entitled is limited to that provided in paragraph (e) and an employee will not be reimbursed for any amount required to be repaid pursuant to the *Employment Insurance Act* **or the Parental Insurance Act in Quebec.**
- (h) The weekly rate of pay referred to in paragraph (e) shall be:

  - (i) for a full-time employee, the employee's weekly rate of pay on the day immediately preceding the commencement of maternity and/or parental leave without pay;
  - (ii) for an employee who has been employed on a part-time or on a combined full time and part-time basis during the six (6) month period preceding the commencement of maternity and/or parental leave without pay, the rate obtained by multiplying the weekly rate of pay in subparagraph (i) by the fraction obtained by dividing the employee's straight time earnings by the straight time earnings the employee would have earned working full time during such period.
- (i) The weekly rate of pay referred to in paragraph (h) shall be the rate to which the employee is entitled for his or her substantive level to which the employee is appointed.
- (j) Notwithstanding paragraph (i) and subject to subparagraph (h) (ii), if on the day immediately preceding commencement of maternity and/or parental leave without pay an employee has been on an acting assignment for at least four (4) months, the weekly rate shall be the rate the employee was being paid on that day.

- (k) Where an employee becomes eligible for a pay increment or pay revision while in receipt of the maternity or parental allowance, the allowance shall be adjusted accordingly.
- (l) Maternity or parental allowance payments made under the SUB plan will neither reduce nor increase an employee's deferred remuneration or severance pay.
- (m) **The maximum combined maternity and parental allowances payable shall not exceed fifty-two (52) weeks for each combined maternity and parental leave without Pay.**

### **37.03 Special Allowance For Totally Disabled Employees**

- (a) An employee who fails to qualify for Employment Insurance and/or **Quebec Parental Insurance Plan maternity, parental, paternity or adoption** benefits solely because of a concurrent entitlement to benefits under the Disability Insurance Plan, the Long Term Disability Insurance portion of the Public Service Management Insurance Plan, or the *Government Employees Compensation Act*, and who has completed six (6) months of continuous employment before the commencement of the leave shall be paid, in respect of each week of benefits under the **maternity, paternity, adoption and/or parental allowance** not received for the reason described herein, the difference between ninety-three per cent (93%) of the employee's rate of pay and the gross amount of his or her weekly disability benefit under the DI Plan, the LTD Plan or via the *Government Employees Compensation Act*.
- (b) An employee shall be paid an allowance under this clause and under clause 37.02 for a combined period of no more than the number of weeks during which the employee would have been eligible for maternity, paternity, adoption or parental benefits pursuant to the *Employment Insurance Act* or the **Parental Insurance Act in Quebec**, had the employee not been disqualified from Employment Insurance or **Quebec Parental Insurance Plan maternity, paternity, adoption or parental** benefits for the reasons described above.