

## **Submission on Personal Emergency Leave Made to the Special Advisors to the CWR**

Unifor is Canada's largest private sector Union representing over 310,000 members across the country. Over half of our members live and work in Ontario.

Unifor has previously provided an extensive submission to the Changing Workplace Review ("the CWR") and is pleased to have the opportunity to offer further comment on the issue of Personal Emergency Leave ("PEL"). Like the Ontario Federation of Labour, ("the OFL") Unifor observes that hiving off the discussion of PEL from the other leave issues being discussed in the CWR process (e.g., paid sick days leaves) poses both theoretical and practical difficulty. The interconnectedness of these issues necessarily involves a comprehensive review of all related leave provisions. Equally, consideration of possible reform measures related to leave provisions in employment standards and labour legislation should not be undertaken in isolation. Such an approach could unduly complicate leave-related matters and ultimately weaken the floor of rights that should be available to every worker in the province.

### **Principle of Universality**

Employment standards legislation, at its very core, is recognition that there are workers in the labour market that need protection. Building a strong, stable, universal floor of minimum employment rights recognizes that government has an important role to play in the development of labour and social policy.

Under the current *Employment Standards Act* ("the ESA") workers are entitled to 10 unpaid, personal, emergency leave days. The applicability of this leave to a worker is entirely dependent on the size of the employer's workplace. Employers with 49 or fewer workers are exempted from having to provide emergency leave. Ontario is the only jurisdiction in Canada that has an employer size threshold for establishing a right to emergency leave. The effect of this threshold is to disentitle between twenty and thirty percent of Ontario's workers from the right to take personal emergency leave.

A significant body of literature exists that speaks to the evolving nature of work. It confirms what we see every day; work is increasingly poorly compensated, unstable and insecure. The workers employed in these precarious jobs are the most vulnerable and many of them are employed by "small" employers. The current exclusion denies access to those who need it most, adding yet another layer of job insecurity for vulnerable workers.

Unifor supports Option 2 as referenced at s. 5.3.4 in the Special Adviser’s Interim Report (“the Interim Report”). The exemption that allows employers with 49 or fewer workers to not provide personal emergency leave must be repealed. We support this position because illness, accidents and personal emergencies occur regardless of the size of the workplace. They occur universally because workers are human. Universal applicability of emergency leave provisions would reflect this basic understanding.

### **Extension of the Scope of Leave Provisions**

Unifor also encourages the Government to adopt a broader and more purposeful definition of family-related leave. The ESA should recognize the complex nature of families and family-like, supporting structures. Unifor recommends amending the legislation to extend explicit access to emergency personal leave, without penalty, to legal guardians and to employees who provide care for a person in a situation of dependence on the employee.

### **Employer’s Perspective Considered**

Employers appear to want to impose limitations on PEL, adopting views outlined at Option 3 and 4 of section 5.3.4 of the *Interim Report*. Specifically, employers are advocating for a subdivision of emergency leave provisions, asking to make rules more stringent, while simultaneously complaining that the rules need to be streamlined.

Unifor takes the position that subdivision of personal emergency leave provisions unnecessarily complicates emergency leave and adds layers of the kind of red tape of which employers complain. Changes suggested would increase the administrative and regulatory burden for businesses as they would be required to track different categories of personal emergency leave.

The submissions of the employers do not adequately recognize that many workers are already disinclined to take PEL because of the economic burden of taking unpaid leave. Personal emergency leave is designed to provide workers with a very limited degree of flexibility needed to balance the demands of work with urgent matters including family illness. Eliminating the kind of flexibility that is currently provided shifts a burden onto workers who already have few choices in dealing with exigencies of life.

## **Conclusion**

The CWR offers the opportunity to improve the lives of working people in Ontario. There is potential to raise the floor of rights for every Ontario worker and ameliorate the difficult working conditions for the most vulnerable of Ontario workers. In order to provide the most meaningful change, the inter-relatedness of various leave provisions and recommendations must be considered concurrently.

Recommendation(s): Consider personal emergency leave in the context of the entire Changing Workplace Review process—not in advance or in isolation. Repeal the exemption for employers of 49 or fewer workers from providing personal emergency leave.

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