



November 3rd, 2020
Ottawa, ON

The Right Honourable Justin Trudeau, P.C., M.P.
Prime Minister of Canada
Office of the Prime Minister and Privy Council
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Prime Minister,

I am writing to you as the President of the [Association of Justice Counsel](#) (AJC). We represent approximately 2,600 lawyers employed by the Government of Canada, who work for the Department of Justice, the Public Prosecution Service of Canada, and provide in-house legal services to various federal agencies, tribunals and courts across the country.

We appreciate the Trudeau government's proud feminist agenda, and in particular your recognition that the economic challenge created by Covid-19 is hitting women and mothers particularly hard. That is why, we are disappointed by your Government's decision to further restrict 699 leave with pay provisions for your own employees.

This policy change will have the greatest adverse impact on women with children, and will also impact other vulnerable groups who have been disproportionately affected by the pandemic. There is overwhelming evidence that Covid-19 has had profound long-term economic and [mental health](#) impacts on these groups.

The 699 leave provisions have been one of the important ways in which the federal government was leading by example, as an employer, in supporting women's participation in the workforce during this unprecedented pandemic, which is far from over, as Canadians endure a second wave of restrictions and closures.

Instead of taking a leadership role and providing a strong example for other Canadian Employers and supporting gender equity in employment during this critical period of time, the Government of Canada's approach will perpetuate inequities in a workplace that, until now, has helped to support vulnerable groups by providing one of the most stable sources of income available to them.

Bargaining Agents have highlighted the benefits of paid 699 leave for vulnerable groups, and have made numerous interventions since May of this year to enter into interest-based discussions to identify sustainable and more appropriate measures to support Employees who have been prevented from

working due to circumstances beyond their control, with no effect. Instead, the Government has chosen to largely ignore our comments on proposed changes to the guidelines around this leave.

We were extremely disappointed by the updated guidelines which were released on October 23, 2020 in the absence of our finalized comments, which now require employees to deplete other forms of paid leave, including vacation, prior to accessing 699 leave.

Maintenance of an effective leave program for public service employees has been, and should continue to be an important component of the Government's pandemic recovery plan. The data provided by the Employer and the most recent report of the Office of the Parliamentary Budget Officer (August 23, 2020) demonstrates that existing measures to increase the ability of employees to work from home and reduce reliance on Leave Code 699 have already had a dramatic impact in reducing the volume of leave being used.

Furthermore, the recent decision of the Supreme Court of Canada in *Fraser v. Canada* confirms the Employer's obligation to ensure that such policy decisions do not have an adverse and disproportionate impact upon members of groups protected on an enumerated or analogous ground, including but not limited to women, racialized and indigenous people, persons with disabilities and family status.

It is disconcerting that the Gender Based Plus (GBA+) Analysis of the proposed 699 leave guidelines that the Bargaining Agents requested on August 28, 2020, and which the Government assured us on September 11, 2020 would be shared is now being withheld under the guise of Cabinet confidence. Despite this the Government acknowledged on October 19, 2020, that the GBA+ Analysis had revealed that employees in roles that are predominantly female or gender neutral have had a higher reliance on Leave Code 699, most frequently for family care responsibilities.

We know that women shoulder the burden of unpaid work disproportionately, and the elimination of Leave Code 699 will have a significant and disproportionate impact upon women, parents and members of vulnerable groups. In deciding to move forward with new 699 leave guidelines, the Trudeau Government is demonstrated an uncharacteristic blindness to the realities of your employees.

Leave with Pay was negotiated into our collective agreements to provide for leave in circumstances not directly attributable to the employee that prevent the employee reporting for duty, including emergencies affecting the community or place of work. This pandemic is an exceptional and extraordinary event which far exceeds the parameters and intentions of the parties with regards to other existing collective agreement leave provisions. Requiring employees who are already exhausted and overwhelmed to use and potentially deplete leave banks intended for other specific purposes, such as sick leave and vacation, will create unintended consequences for these employees in the future.

Finally, this policy introduces new criteria for 699 leave which will be unevenly and inequitably applied by managers. These criteria represent unnecessary and unjustified barriers that will effectively remove parents' ability to decide what is in the best interest of their children and families.

In conclusion, the changes brought to the 699 leave by your government will have the effect of reinforcing, perpetuating, or exacerbating the historical disadvantages faced by women, disabled workers and members of other vulnerable groups working within the federal government. These are the very people you pledged to help protect and elevate while campaigning for re-election.

We urge you, as both a feminist and the inspirational leader you aim to be for the world, to not only reverse these changes for federal employees, but also ask that you instruct your senior officials to look into how similar provisions could be put in place to cover all Canadians and ensure that Canadian women continue to be supported throughout the crisis.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "David McNairn", with a stylized flourish at the end.

David McNairn
AJC President

CC Marci Surkes, Executive Director, Policy and Cabinet Affairs; Dominic Cormier, Senior Policy Advisor