

*Your responses suggest that the statutory protection from dismissal may not cover your absence.*

## **772 Employment not to be terminated on certain grounds**

- (1) An employer must not terminate an employee's employment for one or more of the following reasons, or for reasons including one or more of the following reasons:
  - (a) temporary absence from work because of illness or injury of a kind prescribed by the regulations;

### **6.04 Temporary absence—illness or injury**

- (1) For paragraph 772(1)(a) of the Act, this regulation prescribes kinds of illness or injury.

Note: Under section 772 of the Act, an employer must not terminate an employee's employment because the employee is temporarily absent from work because of illness or injury of a kind prescribed by the regulations.

- (2) A prescribed kind of illness or injury exists if the employee provides a medical certificate for the illness or injury, or a statutory declaration about the illness or injury, within:
  - (a) 24 hours after the commencement of the absence; or
  - (b) such longer period as is reasonable in the circumstances.

Note: The Act defines *medical certificate* in section 12.

- (3) A prescribed kind of illness or injury exists if the employee:
  - (a) is required by the terms of a workplace instrument:
    - (i) to notify the employer of an absence from work; and
    - (ii) to substantiate the reason for the absence; and
  - (b) complies with those terms.
- (4) An illness or injury is not a prescribed kind of illness or injury if:
  - (a) either:
    - (i) the employee's absence extends for more than 3 months; or
    - (ii) the total absences of the employee, within a 12 month period, have been more than 3 months (whether based on a single illness or injury or separate illnesses or injuries); and
  - (b) the employee is not on paid personal/carer's leave (however described) for a purpose mentioned in paragraph 97(a) of the Act for the duration of the absence.
- (5) In this regulation, a period of paid personal/carer's leave (however described) for a purpose mentioned in paragraph 97(a) of the Act does not include a period when the employee is absent from work while receiving compensation under a law of the Commonwealth, a State or a Territory that is about workers' compensation.