

PAID COVID-19 SICK LEAVE FOR BRITISH COLUMBIA EMPLOYEES

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On May 11, 2021, the British Columbia government announced the introduction of Bill 13 which, if passed, will amend the British Columbia *Employment Standards Act*, R.S.B.C. 1996, c.113 (“**ESA**”), to introduce a Covid-19 related paid leave, as well as paid leave for personal illness or injury. The proposed amendments will remain in effect until December 31, 2021.

Prior to the current proposed amendments, the ESA did not provide for any form of paid sick leave. The government has also announced that consultations will take place over the course of this year to discuss the introduction of a permanent program that will provide for paid sick leave post-pandemic.

The existing unpaid COVID-19 sick leave provisions

Section 52.12 of the ESA currently provides for **unpaid leave** where an employee requires time off for reasons related to COVID-19. The entitlement to unpaid leave under this section arises when:

- An employee is diagnosed with COVID-19 and acts in accordance with an order or instructions of a medical health officer or advice of a medical practitioner, nurse practitioner or registered nurse;
- The employee is in quarantine or self-isolation as required by law;
- The employer has directed the employee not to work because the employer is concerned about the employee’s exposure to others;
- An employee provides care to certain eligible persons, including children and other family members; and
- The employee is located outside of British Columbia and unable to return to British Columbia because of travel or border restrictions.

If any of these circumstances arise, an employee is entitled to unpaid leave pursuant to section 52.12(3) for as long as the above circumstances apply to the employee.

The proposed new paid COVID-19 sick leave provisions

Bill 13 proposes to introduce a new section 52.121 into the ESA. This new section will entitle employees up to 3 days paid sick leave where an employee requires time off for reasons related to COVID-19, in the following

specific circumstances:

- An employee is diagnosed with COVID-19 and acts in accordance with an order or instructions of a medical health officer or advice of a medical practitioner, nurse practitioner or registered nurse;
- The employee is in quarantine or self-isolation as required by law; and
- The employer has directed the employee not to work because the employer is concerned about the employee's exposure to others.

While an employee will still be entitled to time off for as long as the above circumstances apply to the employee (as currently provided for in section 52.12(3)), the new section 52.12(2) will entitle the employee to be paid for up to 3 of the days that the employee is absent from work as a result of the above circumstances.

The legislation also sets out a formula for determining an employee's average daily wage for the purposes of determining the wages an employee is entitled to for the sick leave. The formula takes into account the wages earned over 30 calendar days preceding the leave, less any amounts paid for overtime.

For employers who do not have an existing sick-leave program, the government has indicated that it will reimburse up to \$200 per day for each employee absent pursuant to the leave.

Application to unionized employers

Unionized employers should take note of the new proposed sections 52.12(6) and (7). These sections provide that where paid leave provisions in a collective agreement applicable to the circumstances described above, meet or exceed the paid leave entitlements in section 52.12, then the provisions of the collective agreement will apply. If a collective agreement is silent on the issue, or does not meet or exceed the ESA paid leave entitlements, then section 52.12 applies.

Leave for personal injury or illness

In addition to introducing the Covid-19 related paid leave, the proposed amendments also impact the current provisions relating to unpaid leave for personal injury or illness which are currently provided for in Section 49.1 of the ESA. Once the legislation is passed, section 49.1 will be amended to provide for a paid leave for up to the number of days prescribed.

Conclusion

A copy of Bill 13 can be seen [here](#).

If you have any questions about how these amendments impact your business, please reach out to us!

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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