

FEDERAL GOVERNMENT ANNOUNCES PAID SICK LEAVE FOR FEDERALLY REGULATED PRIVATE SECTOR EMPLOYEES

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On November 26, 2021, the Federal Government announced the introduction of Bill C-3 - *An Act to amend the Criminal Code and the Canada Labour Code* (the “**Bill**”) which, if passed into law, will amend the *Canada Labour Code* (the “**Code**”) to provide for 10 days of paid sick leave per year for workers in the federally regulated private sector (the “**Announcement**”). This is a significant development and follows shortly after BC’s announcement last week to introduce paid sick leave for BC workers.

The rationale provided by the Federal Government for the introduction of paid sick leave is similar to that provided by the BC Government – the COVID-19 pandemic has highlighted the need for paid sick leave as many workers were forced to choose between their health and being paid. The Federal Government stated that paid sick leave will be a key component in Canada’s economic recovery following the COVID-19 pandemic.

Amendments Proposed to the Code

The amendments proposed by the Bill will repeal the existing s. 206.6(1)(a) of the Code which entitles workers to a leave of absence from employment of up to 5 days per year to treat an illness or injury. The amendments will also replace the existing s. 239(2) with new provisions that will entitle employees to up to 10 days of paid sick leave per year.

The new sick leave provisions can be summarized as follows:

- After 1 continuous month of employment with an employer, a worker will earn 1 day of medical leave of absence with pay (i.e. sick leave) at the beginning of each month, up to a maximum of 10 days per calendar;
- For each day of medical leave of absence taken, a worker must be paid at their regular rate of wages for their normal hours of work. This pay will be considered wages;
- Accrued but unused medical leave of absence will carry over to the following calendar year and will decrease the number of medical leave of absence days that a worker can accrue in the following calendar year such that in any calendar year, the maximum number of sick days available is 10;
- The medical leave of absence can be taken in one or more periods. An employer can require that each

period of leave not be less than 1 day; and

- An employer can require a worker to provide a certificate issued by a health care practitioner certifying that the worker was incapable of working for the period of their medical leave of absence with pay. An employer must request the certificate in writing and no later than 15 days after the worker's return to work from medical leave.

Consultation Process

In the Announcement, the Federal Government indicated that it will be engaging in a consultation process with federally regulated employers and workers with respect to the implementation of this legislation.

Interestingly, the Federal Government also stated that it will “convene provinces, territories and other interested stakeholders to develop a national action plan to legislate paid sick leave across the country, while respecting provincial-territorial jurisdiction and clearly recognizing the unique needs of small business owners”. This is a clear indication that Canada is moving towards the implementation of paid sick leave for workers across Canada.

Current Status and Conclusion

The Bill received a first reading on Friday, November 26, 2021. We will monitor the status of the Bill and when it receives royal assent.

Federal private sector employers should review their sick leave policies in light of these new developments.

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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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