

# GOVERNMENT OF CANADA CLARIFIED INTENDED MEDICAL LEAVE WITH PAY FOR FEDERALLY REGULATED EMPLOYEES

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On July 16, 2022, the federal government published the [Regulations Amending Certain regulations Made Under the Canada Labour Code \(Medical Leave with Pay\)](#) (the “Regulations”).

The Regulations propose various amendments to new, but not yet in force, paid medical leave provisions<sup>[1]</sup> under the *Canada Labour Code*. The Regulations are currently open to consultation until August 15, 2022.

As set out in Bill C-3 earlier this year, eligible federally regulated employees will be entitled to ten days of paid medical leave annually. More specifically, the new paid medical leave provisions will provide employees with 3 days of medical leave with pay after 30 days of continuous employment. Employees will earn one further day at the start of each month after completing one month of continuous employment, up to a maximum of 10 days per calendar year. Any days of medical leave with pay that an employee does not take in a calendar year will carry forward to the next calendar year and each day carried over reduces the number of days that can be earned in that next year by one.

The Regulations establish specific details and specific requirements related to the new paid medical leave entitlement, including:

- defining the “regular rate” for wages that should be used in calculating paid medical leave as either the average daily earnings (before overtime) in the 20-day period prior to the first day of an employee’s leave or a different amount calculated in accordance with a collective agreement;
- establishing record-keeping requirements, which include tracking each leave’s start and end date, the year of employment in which leave was earned, and each employee’s carry-over entitlement;
- requiring that employers who calculate annual vacations using a year other than the calendar year to use that same year to calculate entitlements for paid medical leave; and
- classifying violations of the paid medical leave provisions for the purposes of administrative monetary penalties.

These Regulations serve the purpose of supporting the implementation of paid medical leave legislation through clarifying their application to “certain classes of employees” and ensuring that administrative

monetary penalties “can be used to promote compliance and be used in enforcement of the provisions.”<sup>[2]</sup>

The Regulations will come into force once section 7 of Bill C-3<sup>[3]</sup> comes into force, which will be no later than December 1, 2022—unless the government establishes an earlier date.

### What Employers Should Know

Federally regulated employers should consider updating their workplace policies to address the forthcoming medical leave entitlement takes effect. Those that provide employees with leaves that exceed the *Canada Labour Code*'s minimum requirements should particularly consider how the new entitlement would interact with their policies. McMillan's employment law team will continue to keep federally regulated employers up to speed on developments related to the *Canada Labour Code*.

[1] Bill C-3, online: [here](#).

[2] Canada Gazette, Part I, Volume 156, Number 29: Regulations Amending Certain Regulations Made Under the Canada Labour Code (Medical Leave with Pay), online: [here](#).

[3] Bill C-3, section 7, online: [here](#).

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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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