

December 1, 2021

BULLETIN

BC INTRODUCES 5 DAY PAID SICK LEAVE

The Province recently amended the *Employment Standards Act* (“ESA”) to provide for 5 days of paid sick leave for all employees. This includes full-time, part-time, casual and auxiliary employees. The applicable amendments to section 49.1 of the ESA take effect January 1, 2022, and will replace the current COVID-related paid sick leave. This new paid sick leave is in addition to the 3 days of unpaid sick leave already provided for in the ESA.

After 90 consecutive days of employment, an employee is entitled to up to 5 days of paid sick leave in each year of employment. Sick pay is calculated by dividing the wages earned within the 30 calendar day period preceding the leave (including vacation pay but not overtime) by the number of days the employee worked or earned wages in that 30 day period.

Employers who already have a sick leave policy in place that provides for 5 or more days of paid sick leave will not have to provide any further paid sick leave. For unionized employees, the ESA paid sick leave will only apply if the sick leave entitlements in a collective agreement do not “meet or exceed” the ESA paid sick leave. Therefore, if the sick leave entitlements in a collective agreement provide a similar or better benefit overall for the majority of unionized employees, the ESA paid sick leave is not applicable. If not, the new ESA paid sick leave requirements are deemed to be incorporated in the collective agreement. The “meet or exceed” analysis is complicated, so local governments may wish to seek legal advice to determine whether the new ESA paid sick leave applies to any of their employees.

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