
May 13, 2021

BULLETIN

BILL 13-2021: PAID SICK LEAVE

On May 11, 2021, Bill 13-2021, which amends the *Employment Standard Act*, RSBC 1996 c 113, received its first reading. Bill 13-2021 introduces a paid leave program for employees who are on specified COVID-19-related absences in 2021. It also establishes permanent paid sick leave beginning January 1, 2022.

COVID-19 Paid Leave

Bill 13-2021 proposes to add section 52.121, “COVID-19-related paid leave”. This provision will be in effect once the Bill receives royal assent and is automatically repealed on December 31, 2021. During the period this leave is in effect, an employee is entitled to receive up to three days of paid leave if the employee has been diagnosed with COVID-19, is in quarantine or self-isolation, or is not working due to the employer’s concerns about the employee’s exposure to others.

Under section 52.121, an employer is required to pay an employee who takes COVID-19-related paid leave an amount based on the average daily rate of pay over the past 30 calendar days, excluding overtime.

Section 52.121 does not apply to workplaces with collective agreement provisions that provide paid leave for diagnosed COVID-19, quarantine or self-isolation, or an employer direction not to work because of concern about the employee’s exposure to others, if those provisions meet or exceed the requirements of section 52.121. Section 52.121 is deemed incorporated into collective agreements without such provisions, or when the provisions do not meet or exceed the requirements of Section 52.121.

Where the workplace does not have existing paid sick leave, the Province will reimburse the employer up to \$200 per day of leave taken. The employer will be required to cover any remaining wages owed above \$200 for each paid COVID-19 leave day taken. WorkSafeBC is responsible for setting up and administering the employer reimbursement program. More details on the reimbursement program will be available in June.

Most local governments provide sick leave that far surpasses the 3 days of paid sick leave provided for by this amendment for its full time and part time employees. That being said, the issue arises as to whether casual and auxiliary employees, who are not provided with paid sick leave, are entitled to this new ESA sick leave. In order to make this determination, local governments will need to conduct a “meets or exceed analysis” which involves an overall

comparison of the sick leave provisions in a collective agreement. This can be a complicated analysis and local governments may wish to seek legal advice.

Permanent Paid Sick Leave

Bill 13-2021 also proposes to amend sections 3 and 49.1 of the *Employment Standards Act*. These provisions will be in effect beginning January 1, 2022. These provisions create permanent paid sick leave for employees who cannot work due to any illness or injury. The length of such leave is yet to be determined and we will provide updates as more information becomes available.

It is important to note that Bill 13 is not yet in force and does not have retroactive effect.

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