

2020 Legislative Session: 5th Session, 41st Parliament
FIRST READING

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HONOURABLE HARRY BAINS
MINISTER OF LABOUR

BILL 16 – 2020
EMPLOYMENT STANDARDS AMENDMENT ACT (No. 2), 2020

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Explanatory Note

1 The Employment Standards Act, R.S.B.C. 1996, c. 113, is amended by adding the following section to Part 6:

Illness or injury leave

- 49 . 1** (1) After 90 consecutive days of employment with an employer, an employee is entitled to up to 3 days of unpaid leave in each employment year for personal illness or injury.
- (2) If requested by the employer, the employee must, as soon as practicable, provide to the employer reasonably sufficient proof that the employee is entitled to leave under this section.

Explanatory Note

2 The following section is added:

COVID-19-related leave

- 52 . 12** (1) In this section, "**eligible person**", with respect to an employee, means any of the following:
- (a) a child who is under the day-to-day care and control of the employee by way of agreement or court order or because the employee is the child's parent or guardian;
 - (b) a person who
 - (i) is 19 years of age or older,
 - (ii) is unable, because of illness, disability or another reason, to obtain the necessities of life or withdraw from the charge of the person's parent or former guardian, and

(iii) is under the day-to-day care and control of the employee, who is the person's parent or former guardian;

(c) a prescribed person.

(2) An employee who requests leave under this section is entitled to unpaid leave for the period described in subsection (3) if, in relation to COVID-19, any of the following applies:

(a) the employee has been diagnosed with COVID-19 and is acting in accordance with

(i) instructions or an order of a medical health officer, or

(ii) advice of a medical practitioner, nurse practitioner or registered nurse;

(b) the employee is in quarantine or self-isolation in accordance with

(i) an order of the provincial health officer,

(ii) an order made under the *Quarantine Act* (Canada),

(iii) guidelines of the British Columbia Centre for Disease Control, or

(iv) guidelines of the Public Health Agency of Canada;

(c) the employer, due to the employer's concern about the employee's exposure to others, has directed the employee not to work;

(d) the employee is providing care to an eligible person, including because of the closure of a school or daycare or similar facility;

(e) the employee is outside the province and cannot return to British Columbia because of travel or border restrictions;

(f) a prescribed situation exists relating to the employee.

(3) An employee is entitled to leave under this section for as long as a circumstance described in subsection (2) applies to the employee.

(4) If requested by the employer, the employee must, as soon as practicable, provide to the employer reasonably sufficient proof that a circumstance described in subsection (2) applies to the employee.

(5) An employer must not request, and an employee is not required to provide, a note from a medical practitioner, nurse practitioner or registered nurse for the purposes of subsection (4).

(6) This section may be repealed by order of the Lieutenant Governor in Council.

Transitional Provision

Explanatory Note

Transition – rights and obligations retroactive to January 27, 2020

3 (1) The employee may request and is entitled to leave under section 52.12 if, on the date section 52.12 of the *Employment Standards Act* came into force,

- (a) an employee was employed by an employer,
- (b) a circumstance described in section 52.12 (2) applied to the employee, and
- (c) that circumstance began before section 52.12 came into force but on or after January 27, 2020.

(2) If an employer terminated an employee on or after January 27, 2020 but before section 52.12 of the *Employment Standards Act* came into force, due to a circumstance described in section 52.12 (2) applying to the employee, the employer must offer the employee re-employment in the same or a comparable position and, if the employee is re-employed, the employee's absence from employment following the termination is deemed to be a leave under section 52.12.

(3) An employer's obligation under subsection (2) of this section does not apply if the situation that applied to the employee is one that was prescribed under section 52.12 (2) (f) of the *Employment Standards Act* after that section came into force.

(4) An employer's obligation under subsection (2) of this section does not apply in connection with a person who was prescribed as an eligible person under section 52.12 (1) (c) of the *Employment Standards Act* after that section came into force.

Commencement

- 4 This Act comes into force on the date of Royal Assent.

Explanatory Notes

SECTION 1: [***Employment Standards Act, section 49.1***] adds a provision for unpaid leave for personal illness or injury.

SECTION 2: [***Employment Standards Act, section 52.12***] adds a provision for unpaid leave related to COVID-19.

SECTION 3: [***Transition – rights and obligations retroactive to January 27, 2020***] establishes that COVID-19-related rights of employees and corresponding obligations of employers are retroactive to January 27, 2020.