

# BC Compliance Alert: New Unpaid Leaves for Employees Hit by COVID-19



On March 23, BC became the latest province to amend its employment standards laws to provide unpaid leave to employees affected by COVID-19. More precisely, newly enacted Bill 16 provides for 2 types of new leave:

- COVID-19 leave, which will remain in effect for as long as the pandemic lasts; and
- 3 days of injury or illness leave, which will be a permanent part of the law even after the COVID-19 crisis ends.

Here's an overview of each.

## 1. COVID-19 Leave

**Grounds for Leave:** Employees can take COVID-19 leave, which is retroactive to Jan. 27, 2020, if they're:

- Diagnosed with COVID-19 and follow medical instructions or advice;
- In quarantine or self-isolation in accordance with orders of the Provincial Health Officer or made under the *Quarantine Act* (Canada), or guidelines of the BC Centre for Disease Control or Public Health Agency of Canada;
- Directed not to work by their employer due to concern about the employee's exposure to others;
- Providing care to: (a) a child under their care or as their parent or guardian; or (b) a person 19 years of age or older who can't obtain necessities of life or withdraw from the charge of their parent or former guardian, or is under the care of the employee who's the person's parent or former guardian; or
- Outside the province and can't return to BC because of travel or border restrictions.

**Verification:** Employers may ask employees to provide "sufficient proof" of their COVID-19 circumstances but can't require or even request "a note from a medical practitioner, nurse practitioner or registered nurse."

**Re-employment:** The fact that leave is retroactive to Jan. 27, 2020 means that employers must rehire employees fired due to the above COVID-19 circumstances on or after that date and before March 23, 2020, when the law was adopted.

## **2. Illness or Injury Leave**

BC had been one of several provinces without unpaid leave for personal injury or illness. But Bill 16 changes that. Key provisions:

- Up to 3 days' unpaid leave per year;
- Employee must have over 90 consecutive days of employment to qualify; and
- Employer may request "reasonably sufficient proof" of entitlement to leave.

## **New BC Emergency Benefit**

In addition to the new ESA leave rights, BC is offering a one-time, tax-free payment of \$1,000 to residents whose ability to work has been affected by the COVID-19 outbreak. The benefit will supplement EI or the new federal Emergency Care Benefit or Emergency Support Benefit, which includes workers laid-off, sick or quarantined, parents with sick children, parents who stay at home from work while child care centres and schools are closed, and caring for sick family members, such as an elderly parent. The workers can be EI-eligible and non-EI eligible, such as the self-employed.