Bill 19 Introduces Amendments to Personal Illness or Injury Leave



On March 28, 2022, British Columbia introduced Bill 19 – 2022, *Employment Standards Amendment Act, 2022* (Bill 19) for first reading. Bill 19 addresses issues raised after the province's *Employment Standards Act (ESA) was amended* to entitle eligible employees in the province to eight personal illness or injury leave days—five paid and three unpaid—commencing January 1, 2022. If passed in its current form, Bill 19 would make the following amendments to the ESA:

"Calendar Year" to Replace "Employment Year"

Currently, section 49.1 of the ESA entitles an eligible employee to eight personal illness or injury leave days, five paid and three unpaid, "in each employment year."

Bill 19 would amend section 49.1 so that the employee's entitlement to the eight personal illness or injury leave days would be "in each calendar year."

When Employment is Covered by a Collective Agreement

Collective Agreement Contains Provisions Respecting Paid Personal Illness or Injury Leave

Currently, the ESA provides at section 3(2) that if a collective agreement (CA) contains any provisions governing paid personal illness or injury leave, and the provisions, when considered together, meet or exceed the collective requirements of sections 49.1 (1) (a), (3) and (4) of the ESA, those CA provisions replace the requirements of those ESA sections for employees covered by the CA.

Bill 19 would amend section 3(2) of the ESA so that the paid personal illness or injury leave requirements set out in sections 49.1 (1) (a), (3) and (4) of the ESA, would be the minimum requirements that apply in respect of employees covered by a CA, even if the CA contains provisions that, when considered together, meet or exceed those requirements.

Collective Agreement Contains No Provisions Respecting Paid Personal Illness or Injury Leave

Currently, the ESA further provides at section 3(3) that if a CA contains no provisions respecting paid personal illness or injury leave, or contains provisions relating to such leave that, when considered together, do not meet or exceed the

requirements of sections 49.1 (1) (a), (3) and (4) of the ESA, the ESA requirements are deemed to be incorporated into the CA as part of its terms.

Bill 19 would amend section 3(3) of the ESA so that the ESA requirements of sections 49.1 (1) (a), (3) and (4) of the ESA, would not be deemed to be incorporated into the CA in the described circumstances.

Bill 19 would come into force on the date of Royal Assent.

Source: Littler Mendelson LLP

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