

B.C. introduces paid sick leave regime

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On May 11, 2021, the British Columbia government introduced amendments to the *Employment Standards Act*, RSBC 1996, c 113. The amendments, which received Royal Assent on May 20, 2021, require employers to provide employees with three days of paid leave for reasons related to COVID-19. The new provisions build on amendments introduced in March 2020, which currently provide employees with unpaid COVID-19-related leave. The move comes shortly after Ontario introduced similar legislation (see the Osler National Employment & Labour Group's [previous publication on the Ontario changes](#)). However, unlike Ontario, British Columbia has also mandated the creation of permanent paid sick leave that is set to begin in 2022.

Paid leave will be available to employees who are unable to work due to COVID-19, such as when employees are experiencing symptoms, self-isolating or waiting for test results. One aim of the amendments is to bridge the gap between when an employee first starts to feel sick and when the employee can access the federal Canada Recovery Sickness Benefit.

Employers will be required to pay employees their full wages for each day of their leave. This amount will be calculated based on the employee's average pay from the 30 calendar days preceding the leave. As with the previous unpaid leave, employers may request proof of the need for the leave, but are not permitted to request a doctor's note or medical documentation. As for unionized employees, the new provisions will only apply to such employees if their collective agreement does not already contain paid leave that meets the requirements set out in the amendment. In those cases, the provisions of the amendment will be deemed to be incorporated into the collective agreement.

The Province of British Columbia will reimburse employers up to \$200 per day for each worker. Where the \$200 reimbursement does not adequately cover an employee's full wages, the employer will be required to make up the difference. The employer reimbursement program will be administered by WorkSafeBC and is applicable to wages paid for COVID-19 leave from May 20, 2021 up to December 31, 2021. Employers should consider how they will structure their sick leave policies to account for employee COVID-19 leave days.

After the expiry of the COVID-19 leave on December 31, 2021, the permanent sick leave program will take effect. The Province has provided few details regarding the permanent program, noting that the number of paid sick days and other supports will be determined following consultations with stakeholders, including the business community, labour

organizations, and Indigenous partners. The permanent paid leave program will be much broader than the COVID-19 leave, and will be available to all workers who cannot work due to any illness or injury.

For more information on sick leave and related policies, contact a member of Osler's [Labour and Employment team](#).