



UNITED ASSOCIATION
of Journeymen & Apprentices of the
PLUMBING & PIPEFITTING
Industry of the United States and Canada
Local Union 170 – Affiliated with AFL-CIO-CFL

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January 7, 2022

Re: BC Employment Standards Act - Illness or Injury Leave

Effective January 1, 2022, new legislation was enacted which provides all eligible employees in BC with five (5) days paid illness or injury leave (paid sick days), in addition to the existing 3 unpaid days of job-protected leave.

We have reviewed the new Employment Standards Act provisions and have summarized the key points and how it affects our members in the attached information circular.

Please refer to the links provided at the end of the document for more detailed information and contact me if you have any further questions.

Sincerely,

A.D. Al Phillips, RSE
Business Manager & Financial Secretary

Illness or Injury Leave

Employment Standards Act Part 6, Section 49.1

<p>Effective January 1, 2022, after 90 days of employment, employees can take up to 5 paid days and 3 unpaid days of job-protected leave in their employment year, based on their starting date. The leave can be for any personal illness or injury (including COVID-19). The employer may request reasonably sufficient proof of illness.</p>					
Effective Date	<p style="text-align: center;">January 1, 2022</p> <p>This 5 days' pay replaces previous COVID-19 Paid Sick Leave – interim legislation in effect from May 20, 2021 to December 31, 2021 which provided employees with 3 paid sick days for COVID-19 only related leave.</p>				
Eligibility	<p>The employee must have worked with their employer for at least 90 days to be eligible for the paid sick days.</p> <p>“Employment year” refers to the specific employee’s employment year, based on their start date. (anniversary date)</p> <p>Covers part-time, temporary or casual employees</p> <p>The days do not have to be taken consecutively.</p> <p>No allowance for partial sick days</p>				
Reasonably Sufficient Proof	<p>Credible verbal (or electronic – ie text or email) information from the employee to support the nature of the absence.</p>				
Wage Entitlement	<p>Employees are entitled to an average day’s pay. If an employee qualifies for this leave, the employer must pay at least an average day’s pay for each day of paid leave taken. To calculate an average day's pay, use the following formula:</p> <p style="text-align: center;">Total wages ÷ number of days worked = average day's pay</p> <p>Base the calculation on days worked during the 30 calendar days before the first day of the leave. Include vacation days and paid sick days.</p> <p>Include all wages – this includes salary, commission, statutory holiday pay, paid vacation, and paid sick days. Don't include overtime.</p> <p>Vacation pay must be paid on paid sick leave.</p>				
<p>Does it apply to Local 170 members?</p> <p>Applies to Local 170 members as agreements contain no provision for sick days</p>	<p>Employment Standard Act Part 1, Section 3(3) Scope of the Act:</p> <p>(3) If a collective agreement <u>contains no provisions</u> respecting a matter set out in column 1 of the following table, or contains any provisions respecting a matter set out in column 1 that, when considered together, do not meet or exceed the requirements, when considered together, of the Part or section of this Act specified opposite the matter in column 2 of the table, that Part or section of the Act is deemed to be <u>incorporated in the collective agreement as part of its terms</u>:</p> <p><i>Excerpt:</i></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">Column 1</td> <td style="width: 50%; border: none;">Column 2</td> </tr> <tr> <td style="border: none;">Paid personal illness or injury leave:</td> <td style="border: none;">Section 49.1 (1) (a), (3) & (4)</td> </tr> </table>	Column 1	Column 2	Paid personal illness or injury leave:	Section 49.1 (1) (a), (3) & (4)
Column 1	Column 2				
Paid personal illness or injury leave:	Section 49.1 (1) (a), (3) & (4)				

**LEGISLATION INCORPORATED
INTO COLLECTIVE AGREEMENT:**

Illness or Injury Leave

Employment Standards Act Part 6,
Section 49.1

49.1 (1) After 90 consecutive days of employment with an employer, an employee, for personal illness or injury, is entitled in each employment year, to

- (a) paid leave up to the number of days prescribed, and
- (b) unpaid leave for up to 3 days.

(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.

(3) Subject to subsection (4), an employer must pay an employee who takes leave under subsection (1) (a) an amount in money equal to at least the amount calculated by multiplying the period of the leave and the average day's pay, where the average day's pay is determined by the formula

$$\text{amount paid} \div \text{days worked}$$

where

amount paid is the amount paid or payable to the employee for work that is done during and wages that are earned within the 30 calendar day period preceding the leave, including vacation pay that is paid or payable for any days of vacation taken within that period, less any amounts paid or payable for overtime, and

days worked is the number of days the employee worked or earned wages within that 30 calendar day period.

(4) An employer must pay an employee in a prescribed circumstance who takes leave under subsection (1) (a) an amount in money equal to at least the amount calculated in accordance with the regulations.

Province of BC website links with Illness or Injury Leave Legislation and Guidance:

<https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/paid-sick-leave>

<https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards/forms-resources/igm/esa-part-6-section-49-1>

<https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards/forms-resources/igm/esa-part-1-section-3>