

CONSULTATION DRAFT

AN ACT TO AMEND THE EMPLOYMENT STANDARDS ACT

BILL NO.

2023

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. **Subsection 5.3(1) of the *Employment Standards Act* R.S.P.E.I. 1988, Cap. E-6.2, is amended by the addition of the following after clause (g):**
 - (g.1) the amount of any paid sick leave to which the employee is entitled;
2. **Subsection 5.6(1) of the Act is amended by the addition of the following after clause (j.2):**
 - (j.3) the number of days of paid sick leave that the employee has accumulated and used;
3. (1) **Subsection 22.2(2) of the Act is repealed.**
 - (2) **Subsection 22.2(3) of the Act is repealed and the following substituted:**

Details of leave to employer

 - (3) An employee requesting leave under subsection (1) or subsection (4) shall advise the employer, subject to subsections (1), (4) and (9), of the anticipated duration of the leave.

(3) **Subsections 22.2(4) and (5) of the Act are repealed and the following substituted:**

Paid sick leave

 - (4) Where an employee has been employed by the same employer for a continuous period of at least one month, the employer shall, at the request of the employee, grant the employee leaves of absence with pay of up to the number of days provided for in subsection (7), in total during a twelve calendar-month period, in addition to any unpaid leave that the employee is entitled to under subsection (1).

Rate of pay

 - (5) An employer must pay an employee who takes leave under subsection (4) 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 pay that is earned within the 30 calendar day period preceding the leave, excluding pay in lieu of vacation, gratuities or benefits, less any amounts paid or payable for overtime, and

“**days worked**” is the number of days the employee worked or earned pay, excluding pay in lieu of vacation, gratuities or benefits, within that 30 day period.

Accrual of days of paid sick leave

- (6) An employee earns, as of the first day on which this subsection applies to the employee,
 - (a) after 30 days of continuous employment with the employer, one day of paid sick leave; and
 - (b) on the 31st day, and at the beginning of each month of continuous employment thereafter, one day of paid sick leave.

Maximum days

- (7) An employee is entitled to earn up to 5 days of paid sick leave in a calendar year.

Annual carry forward

- (8) Each day of paid sick leave that an employee does not take in a calendar year is to be carried forward to January 1 of the following calendar year and decreases, by one, the maximum number of days that can be earned in that calendar year under subsection (7).

Medical certificate, paid sick leave

- (9) Where an employee requests a leave of absence under this section that is five consecutive calendar days or more in length, the employer may require the employee to provide the employer with a certificate signed by a medical practitioner certifying that the employee is or was unable to work due to illness or injury.

Paid days first

- (10) An employee is entitled to take any paid days of leave available to the employee before any of the unpaid days of leave that the employee is entitled to under subsection (1).

Financial support program

- (11) Subject to subsection (13), the Minister may implement a financial support program to provide temporary financial support to be given to employers to help them adapt to any increased costs associated with paid sick leave provided under subsection (4).

Minister may provide support

- (12) Subject to subsection (13), the Minister may provide funding to employers under the financial support program provided for in subsection (11).

Appropriation required

- (13) The moneys required for the purpose of subsections (11) and (12) shall be paid out of moneys appropriated for that purpose by the Legislature.

- 4. This Act comes into force on the earlier of a date that may be fixed by proclamation of the Lieutenant Governor in Council or 180 days after the date of Royal Assent.**

EXPLANATORY NOTES

SECTION 1 amends subsection 5.3(1) of the *Employment Standards Act* to require employers to include the amount of any paid sick leave to which employees are entitled in the employees' pay statements.

SECTION 2 amends subsection 5.6(1) of the Act to require employers to include the number of days of paid sick leave that employees have accumulated and used in the payroll records the employers are required to make and keep.

SECTION 3 amends section 22.2 of the Act to establish that

- an employee may earn and take up to 5 days of paid sick leave in a calendar year;
- an employee may carry over unused paid sick days to the following calendar year;
- an employer may require the employee to provide a certificate signed by a medical practitioner certifying that the employee is or was unable to work due to illness or injury;
- an employee is entitled to take paid days of leave before any unpaid leave.
- the Minister of Economic Growth, Tourism and Culture may implement a financial support program to provide temporary financial support to be given to employers to help them adapt to any increased costs associated with paid sick leave.

SECTION 4 provides for the commencement of the Act.