

CONSULTATION DRAFT 3

AN ACT TO AMEND THE EMPLOYMENT STANDARDS ACT (NO. 4)

BILL NO.

2022

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- 3 (1) Subsection 22.2(2) of the Act is repealed.**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 amended by the deletion of the words “subsections (1) and (2)” and the substitution of the words “subsection (1)”**
- (3) Subsections (4) and (5) of the Act are repealed and the following substituted:**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 three months, 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)** Where an employee is entitled to a day of paid sick leave pursuant subsection (4), the employer shall pay the employee for the day an amount determined by the formula

A × B

where

A is the number of days in the period of leave; and

B is

- (a) in the case of an employee who is paid hourly, the employee's regular rate of wages multiplied by the number of hours for which the employee would have worked if the employee had not requested the leave of absence; or
- (b) in the case of a salaried employee, the employee's rate of pay for a day of work.

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) following the period of 30 days referred to in clause (a), at the beginning of each month after completing one month of continuous employment with the employer, one day of paid sick leave.

Maximum days

- (7) An employee is entitled to earn up to 10 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 in length or more, 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.

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 10 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; and
- 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.