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LEAVE AND DISABILITY REGULATORY COMPLIANCE

Summary of legislative and regulatory changes

Canada | October 2020

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Federal

Reg. 2020-226 — Amending the Canada Labour Standards Regulations

Registered Oct. 14, 2020

In this post on the Government of Canada's website, it was announced that the Canada Labour Standards Regulations have been amended to temporarily suspend an employer's ability to require an employee to provide a certificate from a health care practitioner if he or she is absent for longer than three days on medical leave. This regulation aims to decrease the number of non-urgent medical visits by employees seeking medical certificates, removing the unnecessary burden on the health care system and reducing the risk of employees exposing themselves or others to COVID-19. This regulation is temporary and will be in force until Sept. 25, 2021.

Federal leaves are only available to federally regulated employees.

Federal

Bill C-4, An Act relating to certain measures in response to COVID-19

Royal Assent Oct. 2, 2020

Bill C-4, An Act relating to certain measures in response to COVID-19 enacts the Canada Recovery Benefits Act and makes corresponding changes to the COVID-19 leave provided by the Canada Labour Code. Under the Canada Labour Code, Bill C-4 provides employees with the following temporary unpaid leaves of absence:

- Up to two weeks (or the number of weeks set under the regulations) if the employee is unable to work as a result of:
    - Contracting (or may have contracted) COVID-19;
    - Underlying conditions, undergoing treatments or have contracted other sicknesses that, in the opinion of a medical or nurse practitioner, person in authority, government or public health authority, would make them more susceptible to COVID-19; or
    - Being in isolation on the advice of their employer, medical or nurse practitioner, person in authority, government or public health authority for reasons related to COVID-19.
- Up to 26 weeks (or the number of weeks set under the regulations) if the employee is unable to work because:
    - They must care for a child under age 12.
    - They must care for a family member (includes anyone whom the person considers to be like a close relative) who requires supervised care.

These amendments are set to expire on Sept. 25, 2021. Federal leaves are only available to federally regulated employees.

Manitoba

Bill 44 – The Employment Standards Code Amendment Act

Royal Assent Oct. 28, 2020

Bill 44 amends the Employment Standard Code to expand the eligibility of COVID-19 leave to those who:

- Are susceptible to COVID-19 because of an underlying medical condition;
- Are undergoing medical treatment; or
- Have contracted another illness.

In addition to expanding the eligibility of COVID-19 leave, Bill 44 extends the temporary suspension of medical certificate requirements for:

- Maternity leave;
- Compassionate care leave;
- Unpaid leave for organ donation;
- Leave related to critical illness;
- Long-term leave for serious injury or serious illness; and
- Public health emergency leave.

These amendments will be in effect until Sept. 25, 2021. The transitional provision previously enacted in April 2020 is repealed.

Ontario

Bill 200 – Employment Standards Amendment Act (Sick Notes)

Introduced Oct. 21, 2020

Bill 200 – Employment Standards Amendment Act (Sick Notes) was introduced on Oct. 21, 2020. If passed, Bill 200 will amend the Employment Standards Act, 2000, to alter the certification requirement for taking sick leave. Under Bill 200, an employer may require an employee who takes sick leave to provide evidence reasonable in the circumstances that the employee is entitled to the leave, but the employer may not require an employee to provide a certificate from a qualified health practitioner as evidence.

Québec

Bill 51 – An Act mainly to improve the flexibility of the parental insurance plan in order to promote family-work balance

Royal Assent Oct. 29, 2020

Bill 51 came into force on Oct. 29, 2020 and makes the following amendments: to the Act respecting parental insurance/Loi sur l'assurance parentale and the Act respecting labour standards/Loi sur les normes du travail:

- Paternity leave must be completed within 78 weeks after the birth of the child (it used to be 52 weeks).
- Maternity leave is increased from 18 to 20 weeks after the birth of the child.
- Maternity leave for mothers whose pregnancy is terminated in or after the 20th week of gestation are entitled to take 18 weeks, which ends 20 weeks after the termination.
- Parental leave is increased from 52 to 65 weeks to be taken within 78 weeks from the date the child is born or adopted.

Yukon

Bill 10 – Act to Amend the Employment Standards Act (2020)

Second Reading Oct. 31, 2020

If passed, Bill 10 will allow employees to take a combination of paid and unpaid leave if the employee, a child of the employee or a person to whom the employee provides care or support experiences domestic or sexualized violence.

The Information contained within this document is intended to provide summary level information on proposed or enacted laws related to family and medical leave. It is not intended to provide guidance on the application of these legal requirements or as an update to your Company's attendance and/or leave policies. We recommend you consult with Legal Counsel to determine what changes, if any, should be applied to Company Policy.

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