

BILL 13 – 2021

**EMPLOYMENT STANDARDS
AMENDMENT ACT (No. 2), 2021**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

1 Section 3 of the Employment Standards Act, R.S.B.C. 1996, c. 113, is amended

(a) in the table in subsection (2) and in the table in subsection (3) by adding the following as indicated after the entry respecting statutory holidays:

Column 1 Matter	Column 2 Part or Section
Paid personal illness or injury leave	Section 49.1 (1) (a), (3) and (4)

, and

(b) in subsection (6) by striking out “Part 6 [leaves and jury duty];” and substituting “Part 6 [leaves and jury duty] except for section 49.1 (1) (a), (3) and (4) [paid personal illness or injury leave];”.

2 Section 49.1 is amended

(a) by repealing subsection (1) and substituting the following:

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

(b) by adding the following subsections:

- (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.

3 *The following section is added:*

COVID-19-related paid leave

52.121 (1) In this section;

“**applicable period**” means the period described in section 52.12 (3);

“**eligibility period**” means the period that begins on the date this section comes into force and ends on December 31, 2021.

- (2) Subject to subsection (3), despite an employee being entitled under section 52.12 (2) only to unpaid leave during the applicable period, an employee who is on leave under section 52.12 (2) (a), (b) or (c) is entitled, on request under this section, to paid leave for a period of that leave of up to 3 days.
- (3) An employee is entitled to paid leave under this section of up to 3 days during the eligibility period.

- (4) Subject to subsection (5), an employer must pay an employee who takes leave under this section 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.

- (5) An employer must pay an employee in a prescribed circumstance who takes leave under this section an amount in money equal to at least the amount calculated in accordance with the regulations.
- (6) If a collective agreement contains any provisions respecting paid leave that apply to a circumstance described in section 52.12 (2) (a), (b) or (c), and the provisions, when considered together, meet or exceed the requirements, when considered together, of this section, those provisions of the collective agreement replace the requirements of this section in respect of employees covered by the collective agreement.
- (7) If a collective agreement contains no provisions respecting paid leave that apply to a circumstance described in section 52.12 (2) (a), (b) or (c), or contains any provisions respecting paid leave that apply to those circumstances that, when considered together, do not meet or exceed the requirements, when considered together, of this section, this section is deemed, while this section is in force, to be incorporated in the collective agreement as part of its terms.
- (8) This section is repealed on December 31, 2021.

4 Section 127 (2) (u.1) is amended by striking out “section 52.5 (5.2)” and substituting “sections 52.121 (5), 52.13 (4) and 52.5 (5.2)”.

5 Section 127 (2) (u.1) is amended by striking out “sections 52.121 (5), 52.13 (4) and 52.5 (5.2)” and substituting “sections 49.1 (4), 52.13 (4) and 52.5 (5.2)”.

Commencement

- 6 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 Provisions of Act	Column 2 Commencement
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Sections 1 and 2	January 1, 2022
3	Section 5	January 1, 2022