



What's New in HR Law

Federally regulated private sector employees now entitled to paid medical leave

December 1, 2022 | By [Caroline DeBruin](#)

Bottom Line

Today, amendments to the *Canada Labour Code* (“Code”) come into force to provide federally regulated private sector employees with up to 10 days of paid medical leave per calendar year. These amendments arise from Bills C-3, [An Act to amend the Criminal Code and the Canada Labour Code](#), and C-19, [An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures](#), which were passed by Parliament over the last 12 months.

Accrual Process

As previously covered in our [July 2022 insight](#), the *Code* has been amended to provide a new entitlement to paid medical leave. Employees who are subject to Part III of the *Code* will earn this entitlement in accordance with the following process:

- Employees will accrue three days of paid medical leave after they complete 30 days of continuous employment with their employer.

This article is for the purposes of only general information and does not constitute legal advice or opinion.

- Thereafter, employees will accrue one additional day of paid medical leave for each month of continuous employment that they complete. Such accrual continues until an employee reaches the maximum entitlement of 10 days of paid medical leave.

In practice, individuals who are currently employed by federally regulated private sector employers will immediately enter the 30 day waiting period and will earn their first three days of paid medical leave on December 31, 2022. Their fourth day of paid medical leave will then be accrued on February 1, 2023.

If, for example, an employee starts employment on February 1, 2023, said employee will earn their first three days of paid medical leave on March 3, 2023. Their fourth day of paid medical leave will then be earned on May 1, 2023.

Notable Reminders and Updates

Since the publication of our [July 2022 insight](#), the Government of Canada has published regulations, orders in council, and various other guidance documents to implement the *Code* amendments. These documents confirm several details about how employers should administer the new paid medical leave, including:

- The requirement to provide paid medical leave currently applies to federally regulated private sector employers of all sizes. Although Bill C-19 included a provision restricting paid medical leave to employers with 100 or more employees, this provision has not yet come into force.
- If an employer already provides paid sick leave pursuant to an employment contract or collective agreement, this existing entitlement may overlap with and count towards the new paid medical leave under the *Code*. This will depend on the degree of similarity between the contractual entitlement and the new statutory entitlement. If the contractual entitlement significantly differs from the paid medical leave established by the *Code*, an employee may be able to stack the two entitlements (i.e., use both the contractual sick leave days and the *Code*-provided medical leave).
- If an employer uses a vacation entitlement year other than the calendar year, the employer may utilize that same entitlement year to calculate the paid medical leave entitlement.
- Employers can require employees to take their paid medical leave days in full-day increments.
- Accrued and unused days of paid medical leave can be carried forward to the following year. However, an employee will only ever be entitled to a maximum of 10 days of paid medical leave.
- Employees must be paid their “regular rate of wages” for each medical leave day taken. This is the same standard that applies to other paid leaves under the *Code*, like statutory personal leave.
- Employers can request medical certificates from employees who take at least five consecutive days of medical leave. Any such request must be made in writing and be provided to the employee no later than 15 days after the employee’s return to work.

Check the Box

Federally regulated employers in the private sector should review their current sick/medical leave policies, contracts of employment and/or collective agreements, and other policies to ensure proper compliance with the *Code*.

Need More Information?

For more information or assistance complying with the new federal paid medical leave, contact [Caroline DeBruin](#) at cdebruin@filion.on.ca or your regular lawyer at the firm.



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