



## **Federal Paid Sick Leave**

On December 1<sup>st</sup> 2022, [new Legislation will take effect](#) amending the Part III of the *Canada Labour Code* to provide 10 days of medical leave with pay for all federally regulated employees. The revised Part IV of the *Code* (Administrative Monetary Penalties) will specify monetary penalties for employers who do not comply with labour standards.

Part III of the *Code* provides the basic minimum standards (covering for example Standard Hours, Wages, Vacations and Holidays) for persons employed in federal Crown corporations and federally regulated private-sector industries, such as

- international and interprovincial transportation by land and sea, including railways, shipping, trucking and bus operations;
- airports and airlines;
- port operations;
- telecommunications and broadcasting;
- banks;
- industries declared by Parliament to be for the general advantage of Canada or for the advantage of two or more provinces, such as grain handling and uranium mining; and
- First Nations Band Councils.

It does not apply to federal public servants or provincially regulated employers.

The government has issued two online guidance documents:

1. [Medical leave with Pay - IPG-118](#)
2. [Stacking - Medical Leave with Pay - IPG-119](#)

Both these documents provide illustrative examples to help understand how leave is applied.

The following are important features of the new leave which are mostly covered in these documents.

Full-time employees will accrue leave in the following way:

After 30 days continuous employment	Each subsequent month	Maximum accrual per year	Carryover to next year
3 days paid medical leave	1 extra day paid medical leave	10 days	All unused days up to maximum 10 days



Any employee may take medical leave with pay for any of the following reasons:

- personal illness or injury of the employee
- organ or tissue donation from the employee
- medical appointments for the employee during working hours
- quarantine of the employee

Employees are entitled to take medical leave with pay when their employer:

- schedules them to work, or
- reasonably expects them to be available for assigned work

An employee is not permitted to take medical leave with pay on a day their employer does not schedule or expect them to be available for work.

Other important elements:

- An employer can define the year based on either the calendar year or the same year it has chosen for vacation carry over (e.g., fiscal year). They must notify employees of the calendar they have chosen.
- Employers are required to maintain three years of record keeping for medical leave
- If an employee takes any period of paid or unpaid medical leave of at least 5 consecutive days, an employer may require, through a written request made within 15 days after the employee's return to work, that the employee provide a medical certificate with respect to that period. An employer may require that an employee take paid medical leave in periods of not less than one day.
- New regulations will also add medical leave with pay to the list of paid leaves that are counted as time worked for the purposes of hours of work averaging.

Just as with Vacation, during a transfer of employment (e.g., contract flipping) any accumulated paid medical leave will transfer to the employee's new employer. If an employee had earned five days of leave and then their employment was transferred, they would still be eligible to take five days and would be considered continuously employed for the purposes of continuing to earn additional periods of leave.

Part-time workers will be entitled to 10 days of medical leave with pay per year, as with all other employees. Note that for all employees, periods of paid medical leave (or another paid leave) can only be taken if the employee would otherwise be working.

[Section 17 of the Canada Labour Standards Regulations](#) prescribes the method to calculate pay to which an employee is entitled for various leaves when:

- the employee's work hours differ from day to day, or
- the employee is paid on a basis other than time.



### How Collective agreements apply with Federal paid sick leave

For a detailed note on this with illustrative examples, please consult [Stacking - Medical Leave with Pay - IPG-119](#)

Periods of paid sick leave taken under the terms of a collective agreement or employment contract will count towards an employee's entitlement to medical leave with pay under the Code if **all of the following criteria are satisfied**:

- The employee can take the leave provided for under the collective agreement or contract of employment for one or more of the four reasons listed above.
- The employee may take the leave in one or more periods. The employer may require that each period of leave be of not less than one day's duration.
- The employer does not require that the employee provide a medical certificate if they are absent for fewer than 5 consecutive days.
- The employee is entitled to:
  - receive their regular rate of wages for each day of the leave
  - maintain and accumulate pension, health and disability benefits, as well as seniority, during the leave, and
  - be reinstated after the end of the leave

An existing paid sick leave entitlement that is greater and more favourable than what an employee would be entitled to under the *Code* would not result in a stacking of benefits.

If an existing benefit is different in scope and not directly related to leave for medical reasons (for example, floater holidays; all-purpose leave that could be used to extend a vacation), then that benefit is considered separate and would not reduce the employee's medical leave with pay entitlement. The employee should have the right to access both separately when an existing entitlement differs in scope.

In situations where Union and employer do not agree on how to apply the legislation with the collective agreement in place, they will have to seek arbitration on this issue.

*You can reach the Labour Program of Employment and Social Development Canada for questions about paid medical leave at 1-800-641-4049.*