

June 2018

BC Employers Take Note: Expanded Leave of Absence Provisions Now in Force

In addition to a series of incremental increases to the provincial minimum wage, the first of which became effective on June 1, 2018¹, the BC NDP government has also recently amended the BC *Employment Standards Act* by increasing existing pregnancy and parental leave as well as compassionate care leave entitlements and introducing new leave entitlements in the event of a death of a child or a crime-related child disappearance.

In addition to these leave entitlement amendments which came into force on May 17, 2018, British Columbia employers should also expect that the NDP government will introduce further broad and far-reaching employment standards amendments likely in late 2018 or the spring of 2019.

The present changes to the BC Employment Standards Act provide increased obligations for BC employers to grant unpaid leaves as follows:

Pregnancy leave

Pregnancy leave (maternity leave) remains at 17 consecutive weeks. However, pregnancy leave may now commence 13 weeks from the expected due date, which is an increase from the 11 weeks previously provided.

¹ \$12.65 (\$1.30 increase) effective June 1, 2018; \$13.85 (\$1.20 increase) effective June 1, 2019; \$14.60 (\$0.75 increase) effective June 1, 2020; and \$15.20 (\$0.60 increase) effective June 1, 2021.

Parental leave

Parental leave entitlement remains available to any birth or adoptive parent. Birth mothers may now take up to 61 consecutive weeks of parental leave immediately following the 17 weeks of pregnancy leave for a total of 78 weeks (18 months). Non-birth parents or adopting parents are now entitled to up to 62 consecutive weeks of parental leave to be taken within 78 weeks (18 months) of the child's birth or adoption date.

The increases to pregnancy and parental leave are intended to align pregnancy and parental leaves with recently introduced amendments to Government of Canada employment insurance (EI) benefits which may now be taken over a period of up to 18 months.

Compassionate care leave

Unpaid compassionate care leave has increased from eight weeks to 27 weeks (six months). This leave is available to an employee to care for and support a family member who has a significant risk of death within 26 weeks. The 27 weeks need not be taken consecutively but may be taken intermittently within a 52 week period. The change to compassionate care leave aligns the British Columbia entitlement with changes made to Government of Canada EI benefits.

Death of a child

In the event of a death of a child (under 19 years of age) under any circumstances, an employee is entitled to up to 104 weeks unpaid leave. This is a significant increase over the existing three days unpaid "bereavement leave".

Crime-related child disappearance leave

Unpaid leave of up to 52 weeks is now available if a child has gone missing as a result of a crime. The leave must be taken in a single continuous period or with the employer's consent may be taken on an intermittent or part-time basis. The entitlement to crime-related disappearance of a child ends if the child is found dead. The parent

then becomes entitled to the full 104 weeks leave for the death of a child.

Summary

The above recently enacted amendments to the BC *Employment Standards Act* are only the beginning of many significant changes which are expected to be introduced.

Presently the BC Law Institute is undertaking a full review of employment standards in British Columbia and is anticipated to provide recommendations to the government by the fall of 2018. We anticipate that the legislative amendments will be introduced late in 2018 or in the spring of 2019.

by N. David McInnes and Hilary D. Henley

For more information on this topic, please contact:

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a cautionary note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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