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Sent: April 30, 2021 4:01 PM

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Subject: Bill 284, Putting Ontario Workers First – Paid sick leave changes to the Employment Standards Act

Good afternoon,

The Ontario government introduced [Bill 284, Putting Ontario Workers First](#) on April 29, 2021. The Bill passed first, second, third reading and Royal Assent within a matter of minutes.

This Bill amends the *Employment Standards Act, 2000* (ESA) to require employers to provide employees with up to three paid days of leave related to COVID-19. As such the following only applies to ESA employers. This three day entitlement is in addition to entitlement to unpaid leave currently provided for under [s. 50.1](#) of the ESA. The amendment also provides for reimbursement to an employer under prescribed circumstances.

Below is a brief summary of the new paid sick leave legislation. We suggest you refer to the [Bill](#) and the Ministry's [website](#) for details. As of this writing the ESA has not yet been updated but this should occur within a few days. Regulations are still under development, as are the practical steps, forms and contact information for employers to receive reimbursement.

Summary:

What Bill 284 does: It amends the ESA and requires employer paid sick days for those employees that do not already have paid sick days.

An employee is entitled to paid sick leave for up to three days between April 19, 2021 and September 25, 2021 (if an employee has taken 1-3 unpaid days between April 19 and April 29, 2021 (the date of Royal Assent), the employee may advise the employer in writing within 14 days of April 29, 2021 that they want to be paid for that time off and the employer will pay the employee and seek reimbursement).

If the employee already has access to paid sick days these COVID sick days do not add to that entitlement.

If an employer already provides three (or more) paid COVID sick days to its employee(s) (as at April 19, 2021) the employer cannot receive reimbursement.

The employer can submit a request to be reimbursed for up to \$200/day/employee for each COVID sick day (at the employee's usual wage). This will entail completing and submitting a form to the WSIB (likely online). Any requests for reimbursement must be made within 120 days of the payment to the employee. This form has not yet been designed.

The WSIB is *only administering* this program as a third party agent for the Ministry of Labour Training and Skills Development (Ministry). This is not part of the workplace safety and insurance scheme. While the payments to employers are made from the Board, the funding is

provided by the Ministry. In addition, the Board's increased administration costs will be covered by and reimbursed by the Ministry. To be clear, this program will not impact the WSIB accident insurance fund and/or employers' WSIB premium rates in any manner.

New **ESA s. 50.1(1.2)** sets out the reasons an employee may take COVID sick days which include: self isolating; being ordered to isolate or quarantine; getting a vaccination or because of an adverse reaction to a vaccination; or, caring for a family member under the same type of circumstances. An employer cannot request that an employee present a doctor's note to take a COVID sick day.

The WSIB's COVID sick day decisions (as opposed to WSIB COVID *entitlement* decisions) are not appealable to the WSIB, the Employment Standards Branch or the Ministry. This raises other process issues which we will address at a later time.

A worker may file a complaint (i.e., the employer did not grant a requested leave or pay wages) with the Ministry pursuant to **ESA s.96**.

An employer is not entitled to be reimbursed for COVID sick leave payments if the employee received benefits under the WSIB. In those circumstances, any payment made by the employer would be deemed "advances" by the WSIB and would be reimbursed to the employer as a WSIA payment.

Updates will follow.

LAL

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