

MANDATORY PAID SICK LEAVE

FAQ

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WHO IS ELIGIBLE FOR PAID SICK LEAVE?

Every employee covered under the Employment Standards Act (ESA) is entitled to 5 paid sick days and 3 unpaid sick days each year. Eligible employees include full time, part time, seasonal, and casual staff. Independent contractors are not covered under ESA and unionized workers might have different entitlements under the applicable collective agreement. Employees are only eligible 90 days after their start date.

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IS THIS THE SAME THING AS THE COVID-19 PAID SICK LEAVE?

No. [The COVID-19 paid sick leave](#) entitlement ended on December 31, 2021.

3

CAN I ASK FOR A DOCTOR'S NOTE?

Yes, an employer may request 'reasonable sufficient proof of illness.' Reasonable proof will vary depending on the type of illness or injury. This could mean a verbal account of symptoms, a doctor's note, pharmacy receipt, hospital bracelet, etc.

Note: an employee does not need to provide advance notice as illness or injury can come on suddenly and without warning. The employee should notify their employer as soon as they are able to.

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WHO IS ELIGIBLE FOR PAID SICK LEAVE?

The employee is entitled to an average day's wages, regardless of how many hours the employee may have been scheduled to work on the sick day. To calculate an average day's wages, take the total wages earned in the 30 days preceding and divide by the number of days worked in that period.

$$\frac{\text{Total wages in previous 30 days} +}{\text{number of days worked in previous 30 days}} = \text{average day's pay}$$

Total wages include wages, commission, sick pay, vacation pay and statutory holiday pay. It does not include overtime pay. If the sick day is taken on a statutory holiday and the employee qualifies for stat pay, they must be paid both sick pay and stat pay.

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CAN UNUSED SICK DAYS BE ROLLED OVER INTO A NEW EMPLOYMENT YEAR?

No, any unused sick days will expire when the employment year renews.

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ARE UNUSED SICK DAYS PAID OUT AT THE END OF EMPLOYMENT, SIMILAR TO VACATION PAY?

No, unused sick days are not paid out.

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WHAT CONSTITUTES AN EMPLOYMENT YEAR?

An employment year begins on the employee's start date. For current employees hired prior to January 1, 2022, their employment year will renew on their start date anniversary, effectively entitling them to 10 paid sick days in 2022. For example, the employment year for an employee whose start date was April 1, 2021 will renew on March 31, 2022. This employee will be entitled to 5 paid sick days from January 1, 2022-March 31, 2022 and 5 paid sick days in the new employment year, April 1 2022-March 31, 2023.

Note: ABLE BC and our industry partners are currently pressuring government to close this loophole by redefining "employment year" to a calendar year.

For seasonal employees who might work multiple contracts a year with one employer, each individual contract is considered an employment year. The employee would be entitled to 5 paid sick days for each separate contract, even within the same year. Each contract is subject to the 90-day eligibility requirement.

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DO MENTAL HEALTH ISSUES COUNT AS ILLNESS?

Yes, illness and injury have a broad definition that includes both physical and mental illness.

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CAN AN EMPLOYEE TAKE PARTIAL SICK DAYS?

No. Any amount of time off, even one hour, qualifies as a full day.

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WHAT HAPPENS AFTER AN EMPLOYEE HAS USED ALL 5 PAID SICK DAYS AND ALL 3 UNPAID SICK DAYS PROVIDED UNDER THE ESA?

If an employee is still sick after using all available paid and unpaid sick days, they would be placed on a medical leave of absence. They may be entitled to short or long term disability benefits, if covered by an extended health benefit. If that is not available the employee may choose to apply for EI sickness benefits.

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I ALREADY HAVE A PAID SICK LEAVE POLICY IN PLACE. DO I NEED TO CHANGE IT?

Not necessarily. If your policy already meets the minimum requirements of ESA, then no change is needed. Although you may want to specify within that policy that it includes the mandated paid sick leave required by ESA. If your current policy is less than the minimum requirements, then you do need to update it.

Further information regarding mandatory paid sick leave

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