

Taking Leave related to COVID-19

This fact sheet explains the law in general. It is not intended as legal advice for your particular problem. Because each person's situation is different, you may need to seek legal advice. The information in this fact sheet was reviewed by a lawyer, and was last updated on 21 May 2021.

BC has implemented changes through the Employment Standards Act (ESA) to allow workers to take time off work if you have been affected by COVID-19 or to receive your COVID-19 vaccination. As a migrant worker you may be entitled to paid leave or unpaid leave through these measures. This factsheet explains three new types of leave and their eligibility requirements:

1. COVID-19 vaccine paid leave
2. COVID-19 paid sick leave
3. COVID-19-related unpaid, job-protected leave

1. COVID-19 vaccine paid leave

How can I take paid leave from work to get vaccinated against COVID-19?

In April 2021, BC implemented paid leave for workers to be vaccinated against COVID-19. Under the ESA, a worker can request leave from their employer and is entitled to up to 3 hours of leave. Your employer may request that you provide proof that you are entitled to leave. You may, for example, provide email or SMS text confirmation of your vaccine appointment. They CANNOT require you to provide a doctor's note or proof you've received a vaccine.

Who is eligible for paid leave to get a COVID-19 vaccine?

Paid leave is available to all workers covered by the ESA, regardless of how long you have been employed. COVID-19 vaccine paid leave is retroactive to April 19, 2021. This applies to both your first and second dose, and means that you can request paid leave if you previously took unpaid time off work to get vaccinated against COVID-19.

How much will I be paid?

Your employer must pay your average hourly wage for the number of hours of leave you take. Your average hourly wage is calculated by dividing the wages you earned over the 30 days before your leave by the number of hours you worked during those 30 days. Your average hourly wage should include vacation pay, but not overtime. For example, if your average hourly wage for the 30 days before your vaccine is \$17.25 and you take 2 hours of leave, you will be paid \$34.50.

2. COVID-19 paid sick leave

What if I get COVID-19, can I take paid leave from work?

BC passed changes to the ESA on 20 May 2021 to allow workers who request it to take three days of paid leave from work in any of these three circumstances:

- You have been diagnosed with COVID-19 and are on leave from work as instructed by a medical health officer or advised by a doctor or nurse.

- You are in quarantine or self-isolation because you are following public health orders or guidelines from the provincial health officer, Quarantine Act, BC Centre for Disease Control, or Public Health Agency of Canada. For example, you are in self-isolation under a public health order while waiting for your COVID-19 test results.
- Your employer has directed you not to work because they are concerned you could expose other employees to COVID-19.

You DO NOT have to provide a doctor's note to your employer to take this paid leave.

IMPORTANT: These changes are only in place until 31 December 2021.

How much will I be paid?

Your employer must pay your average day's pay for the number of days of leave you take. Your average day's pay is calculated by dividing the wages you earned over the 30 days before your leave by the number of days you worked during those 30 days. Your average day's pay should include vacation pay, but not overtime. For example, if your average day's pay for the 30 days before your leave is \$138 and you take 3 days of leave, you will be paid \$414.

3. COVID-19-related unpaid, job-protected leave

What if I am sick longer than 3 days?

On 23 March 2020, BC passed changes to the ESA to allow workers affected by COVID-19 to take unpaid, job-protected leave from work. Although the changes were passed in March, they are considered to have been the law from 27 January 2020 when the first COVID-19 case was confirmed in BC.

You are entitled to unpaid, job-protected leave under these changes for as long as you are affected by COVID-19. This means that if you have taken time off because of COVID-19 since 27 January 2020, you cannot be fired for it.

Who is eligible for unpaid, job-protected leave related to COVID-19?

You may be eligible to request unpaid, job-protected leave if:

- You are assisting a dependant being vaccinated against COVID-19,
- You have been diagnosed with COVID-19 and are following the instructions of a medical health officer or the advice of a doctor or nurse,
- You are in quarantine or self-isolation because you are following public health orders or guidelines from the provincial health officer, Quarantine Act, BC Centre for Disease Control, or Public Health Agency of Canada,
- Your employer has directed you not to work because they are concerned you could expose other employees to COVID-19,
- You need to provide care to an eligible person for a reason related to COVID-19, including a school or daycare closure,
- You are outside of BC and unable to return to work due to travel or border restrictions, or
- You are more susceptible to COVID-19 in the opinion of a medical professional because of an underlying health condition, ongoing treatment, or other illness and are receiving Canada recovery sickness benefits for the leave.

Do I have to provide proof that I am eligible for unpaid COVID-19-related leave?

Your employer may ask you to provide proof that you are eligible but CANNOT require a doctor's or nurse's note.

Are there other income supports and how can I access them?

For more information on other income supports, see our factsheet *Income Support Benefits for Migrant Workers during COVID-19*.