

Employment Standard Review

What does it mean for your business?

What's going on? The British Columbia Law Institute (BCLI) has reviewed and made recommendations for reform of British Columbia's *Employment Standards Act*.

How can you be involved? Currently there is a **consultation going on until August 31st**. You are welcome to participate through their online survey at: <https://www.surveymonkey.com/r/2LXMF22> CFIB will be making its own submission. Input from the consultation will then be used to formulate recommendations to the Minister for **reform** of the Act.

Areas CFIB is Concerned About

Current Standard	Proposed Changes
Red Tape and Cost:	
<p><u>Statutory Holiday Pay:</u> Currently an employee must have been employed with a company for at least 30 days prior and collected wages on 15/30 days prior to the statutory holiday.</p>	<p><i>In order to be eligible to receive statutory holiday pay, an employee must have worked or earned wages on 16 of the 60 days preceding the statutory holiday, including</i></p> <ul style="list-style-type: none"> <i>(i) the last day before the holiday, and</i> <i>(ii) the first day after the holiday on which the employee was scheduled to work;</i> <p><i>(b) a day on which the employee is absent because of illness or has permission from the employer to be absent is not to be counted as a scheduled working day for that</i></p>
<p><u>Sick Days/Leave:</u> Currently employees are entitled to 5 unpaid leave days in BC for “family emergency”. There are no mandatory paid or unpaid sick leave days in BC.</p>	<p><i>The ESA should be amended to supplant the present family responsibility leave with a provision allowing a total of up to 7 days of unpaid leave per calendar year which could be taken by reason of</i></p> <ul style="list-style-type: none"> <i>(a) the employee’s own illness or injury, or</i> <i>(b) a family responsibility, namely a need to attend to the care, health, or education of a child in the employee’s care, or the care or health of a member of the employee’s immediate family. [p. 180]</i> <p><i>The number of leave days per year should be 10, and days of leave taken because of the employee’s own illness or injury should be paid at the employee’s regular wage.</i></p>
<p><u>Vacation:</u> Currently employees are entitled to 2 weeks of vacation after one year and 3 weeks after 5 years; there is no requirement for more.</p>	<p><i>Section 57(1) of the ESA should be amended to provide that an employee becomes entitled to an annual vacation of four weeks after 10 consecutive years of employment.</i></p>

Restricting Flexibility:	
<p><u>Minimum Hours Paid:</u></p> <p>Currently if a shift is scheduled under 8 hrs, employees' receive 2 hrs minimum pay if they report in for a shift. If the shift is cancelled before they arrive, pay is not required. If the shift is more than 8 hour shift, the employee is entitled to 4 hrs minimum.</p>	<p><i>(a) more than four hours on the day in question, the employee must receive a minimum of four hours' pay if work starts, and a minimum of two hours' pay if it does not;</i></p> <p><i>(b) less than four hours on the day in question, the employee must receive a minimum of two hours' pay, regardless of whether work starts or not;</i></p>
<p><u>Overtime Hours:</u></p> <p>Currently an employer can require an employee to work overtime, where and when reasonable. No advanced notice is required.</p>	<p><i>A pattern of working hours for a workplace other than the standard of 8 hours per day, 40 hours per week should require worker consent by means of an averaging agreement.</i></p>
<p><u>Shift Work:</u></p> <p>Currently employers who require workers for shifts which are longer than eight hours (such as live-in caregivers and on-call workers) can arrange for an averaging agreement to be implemented, with the agreement of the employee. There currently is no limit to the number of hours that an employee can work in a week under an averaging agreement.</p>	<p><i>The number of working hours per week within an averaging period must not exceed 48 unless overtime is paid for hours worked in excess of 48 in any one week;</i></p>

What we know:

- The BC Federation of Labour is calling for mandatory paid sick days: <https://www.cbc.ca/news/canada/british-columbia/b-c-labour-organization-pushes-for-paid-sick-leave-1.4744158>
- First Call: B.C. Child and Youth Advocacy Coalition is championing a campaign to bring B.C.'s labour laws in alignment with international conventions, which would bring the work start age up to 16: <https://www.thelawyersdaily.ca/articles/6898>
- Additional leave has been granted by the province for maternity, death of a child and others: <http://harrybains.ca/news/new-and-extended-leaves-support-working-families/>
- Minister Bains has been interested in this for some time, and has said he will look at all reports and recommendations: <https://www.cbc.ca/news/canada/british-columbia/b-c-workers-vulnerable-to-wage-theft-bullying-says-labour-group-1.4274784> and <http://bcemploymentstandardscoalition.com/wp-content/uploads/2017/08/BCESC-Workers-Stories-of-Exploitation-and-Abuse-July-2017.pdf>