

LAW & POLICY GROUP

GRIST**CANADA: BRITISH COLUMBIA REVISES EMPLOYMENT STANDARDS ACT**

*By Mercer's Kristin Smith, Stephanie Rosseau and Fiona Webster
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Revisions to British Columbia's Employment Standards Act (ESA) will provide additional job-protected leave, make it easier for employees to recover unpaid wages and file complaints, and increase the employment age of children. Bill 8 — [the Employment Standards Amendment Act, 2019](#) — received [royal assent](#) on 30 May 2019 and most of the new provisions came into force on the same date. The ESA sets minimum standards for workplaces in the province. *This GRIST has been updated to reflect that the bill has received royal assent.*

BILL HIGHLIGHTS

More job-protected unpaid leave. The changes include new leave rights for critical illness and injury leave and domestic and sexual violence:

- Individuals caring for a critically ill family member have a right to unpaid job-protected leave. Employees can take up to 36 weeks to care for a critically ill child (under 19 years) and 16 weeks to care for an adult family member (19 years or older).
- Employees who experience domestic or sexual violence can take up to 10 nonconsecutive days of unpaid job-protected leave and an additional unpaid leave of up to 15 consecutive weeks.

The new leave rights bring British Columbia in line with most provinces, which enacted similar measures in 2018. British Columbia introduced other employee leave rights in 2018.

Improved wage recovery. Employees have 12 months — up from the current six months — to recover wages owed by their employer. In certain circumstances, the recovery period can increase to 24 months.

Gratuities and tips. The changes create a legal framework for regulating employees' rights to tips and tip pooling. Employers are prohibited from withholding or making deductions from tips or other gratuities and can't participate in tip pooling unless performing substantially the same work as the employees.

Collective bargaining agreements (CBAs). CBAs generally have to meet or exceed specific ESA's minimum requirements. Currently, CBAs aren't subject to certain ESA provisions unless they fail to incorporate certain provisions.

Minimum employment age. Children generally can't be employed before age 16 — up from 12 — but 14- and 15-year-olds can perform light work subject to certain conditions. Stronger health and safety rules will apply to those aged 16 to 18. These provisions will come into force at a later date.

Record retention. Employers must retain payroll records for four years from creation instead of two years after the end of employment.

Complaints procedures. The law modernizes the Employment Standards Branch, which is responsible for assessing alleged breaches of the act. Employees no longer have to use the "self-help kit" to try resolving issues with their employer before filing a complaint. Other changes would require the director of the Employment Standards Branch to investigate all accepted complaints, allow the branch to waive or raise penalties and require employers to inform employees of their rights. These provisions will come into force at a later date.

RELATED RESOURCES

- [Bill 8, Employment Standards Amendment Act, 2019](#) (Legislative Assembly of British Columbia, 29 May 2019)
- [Press Release](#) (BC Gov News, 29 Apr 2019)
- [Employment Standard Regulation](#) (BC Laws, May 21, 2019)
- [Employment Standards Act](#) (BC Laws, May 15, 2019)
- [Employment Standards Branch](#)

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