

ADVISORY LETTER

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January 2, 2001

TO: ALL FIR MEMBER COMPANIES

Gentlemen and Mesdames:

**Re: *Employment Standards Act* Amendments
Pregnancy, Parental and Adoption Leave**

Effective December 31, 2000, the parental and adoption leave provisions of Part 6 the *Employment Standards Act* (Sections 50 and 51) shall be amended.

On or after December 31, 2000, natural or adoptive parents shall be entitled to 35 weeks of unpaid leave (an increase from the present 12 weeks unpaid leave), taken within one year of the birth or adoption of a child. In determining an employee's statutory entitlement to leave, the relevant consideration is the date the parental leave commences. If the parental or adoption leave commences on or after December 31, 2000, the employee is entitled to 35 weeks parental or adoption leave, notwithstanding that the birth or adoption took place prior to December 31, 2000.

The 35 weeks of unpaid parental or adoption leave is in addition to the 17 weeks of unpaid pregnancy leave.

These amendments are intended to ensure consistency with the proposed changes to Employment Insurance benefits under the federal *Employment Insurance Act (Canada)* which will provide for insurance benefits for a maximum combined period of pregnancy and parental leave of 52 weeks. Changes to the *Employment Insurance Act (Canada)* are also effective December 31, 2000.

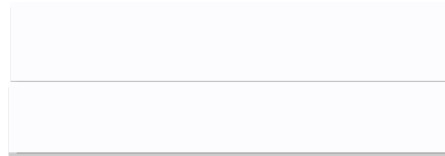
Please note that there is no express provision in the Coast Master Agreement dealing with parental and adoption leaves of absence. Although there is some reference to Maternity Leave in Article XXI, Section 2, the language is outdated and should be disregarded. All requests for pregnancy, parental and adoption leave must be dealt with in accordance with the *Employment Standards Act*.

Pursuant to Section 56 of the *Act*, employment is deemed to be continuous during periods of pregnancy, parental and adoption leave for the purpose of calculating annual vacation entitlement and any pension, medical or other plan beneficial to the employee. During such leave, the employer must continue to make payments as though the employee were not on leave, if the employer pays the total cost of the plan or if the employee chooses to continue to pay his or her share of the cost.

Please find enclosed, (1) an excerpt from the amending legislation (*Miscellaneous Statutes Amendment Act (No. 2), 2000*), highlighting the changes to Sections 50 and 51 of the *Employment Standards Act* and (2) an FIR office consolidation of Section 50 and 51 incorporating the amendments.

Additional information is available on the Ministry of Labour Employment Standards Branch website at www.labour.gov.bc.ca/esb/. If you require further information, please do not hesitate to contact FIR.

Yours very truly,

A rectangular area that has been redacted, likely containing a signature or name. It is divided into two horizontal sections by a thin line.

J. L. Doidge
General Counsel

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Encl.

AMENDING LEGISLATION

MISCELLANEOUS STATUTES AMENDMENT ACT (NO. 2), 2000, S.B.C. 2000, C.26 (BILL 24)

8 *Section 50 is amended*

(a) *by repealing subsection (1) and substituting the following:*

(1) A pregnant employee who requests leave under this section is entitled to up to 17 weeks of unpaid leave

(a) beginning

(i) no earlier than 11 weeks before the expected birth date, and

(ii) no later than the actual birth date, and

(b) ending

(i) no earlier than 6 weeks after the actual birth date, unless the employee requests a shorter period, and

(ii) no later than 17 weeks after the actual birth date, **and**

(b) *in subsection (5) by striking out "subsection (1) (b) must" and substituting "subsection (1) (b) (i) must".*

9 *Section 51 is amended*

(a) *by repealing subsection (1) and substituting the following:*

(1) An employee who requests parental leave under this section is entitled to,

(a) for a birth mother who takes leave under section 50 in relation to the birth of the child or children with respect to whom the parental leave is to be taken, up to 35 consecutive weeks of unpaid leave beginning immediately after the end of the leave taken under section 50 unless the employer and employee agree otherwise,

(b) for a birth mother who does not take leave under section 50 in relation to the birth of the child or children with respect to whom the parental leave is to be taken, up to 37 consecutive weeks of unpaid leave beginning after the child's birth and within 52 weeks after that event,

(c) for a birth father, up to 37 consecutive weeks of unpaid leave beginning after the child's birth and within 52 weeks after that event, and

(d) for an adopting parent, up to 37 consecutive weeks beginning within 52 weeks after the child is placed with the parent, **and**

(b) *in subsection (4) by striking out "is limited to 32 weeks" and substituting "is limited to 52 weeks".*

FIR OFFICE CONSOLIDATION
(Changed section in **boldface** type)

Part 6 — Leaves and Jury Duty (AMENDED)

Pregnancy leave

- 50 (1) A pregnant employee who requests leave under this section is entitled to up to 17 weeks of unpaid leave**
- (a) beginning**
 - (i) no earlier than 11 weeks before the expected birth date, and**
 - (ii) no later than the actual birth date, and**
 - (b) ending,**
 - (i) no earlier than 6 weeks after the actual birth date, unless the employee requests a shorter period, and**
 - (ii) no later than 17 weeks after the actual birth date.**
- (2) An employee who requests leave under this section after the birth of a child or the termination of a pregnancy is entitled to up to 6 consecutive weeks of unpaid leave beginning on the date of the birth or of the termination of the pregnancy.
- (3) An employee is entitled to up to 6 additional consecutive weeks of unpaid leave if, for reasons related to the birth or the termination of the pregnancy, she is unable to return to work when her leave ends under subsection (1) or (2).
- (4) A request for leave must
- (a) be given in writing to the employer,
 - (b) if the request is made during the pregnancy, be given to the employer at least 4 weeks before the day the employee proposes to begin leave, and

- 4 (c) if required by the employer, be accompanied by a medical practitioner's certificate stating the expected or actual birth date or the date the pregnancy terminated or stating the reasons for requesting additional leave under subsection (3).
- (5) A request for a shorter period under subsection (1) (b) (i) must
 - (a) be given in writing to the employer at least one week before the date the employee proposes to return to work, and
 - (b) if required by the employer, be accompanied by a medical practitioner's certificate stating the employee is able to resume work.

Parental leave

- 51 (1) **An employee who requests parental leave under this section is entitled to**
 - (a) **for a birth mother who takes leave under section 50 in relation to the birth of the child or children with respect to whom the parental leave is to be taken, up to 35 consecutive weeks of unpaid leave beginning immediately after the end of the leave taken under section 50 unless the employer and employee agree otherwise**
 - (b) **for a birth mother who does not take leave under section 50 in relation to the birth of the child or children with respect to whom the parental leave is to be taken, up to 37 consecutive weeks of unpaid leave beginning after the child's birth and within 52 weeks after that event,**
 - (c) **for a birth father, up to 37 consecutive weeks of unpaid leave beginning after the child's birth and within 52 weeks after that event, and**
 - (d) **for an adopting parent, up to 37 consecutive weeks beginning within 52 weeks after the child is placed with the parent**
- (2) If the child has a physical, psychological or emotional condition requiring an additional period of parental care, the employee is entitled to up to 5 additional weeks of unpaid leave, beginning immediately after the end of the leave taken under subsection (1).

- (3) A request for leave must
 - (a) be given in writing to the employer,
 - (b) if the request is for leave under subsection (1) (a) or (b), be given to the employer at least 4 weeks before the employee proposes to begin leave, and
 - (c) if required by the employer, be accompanied by a medical practitioner's certificate or other evidence of the employee's entitlement to leave.
- (4) **An employee's combined entitlement to leave under section 50 and this section is limited to 52 weeks plus any additional leave the employee is entitled to under section 50 (3) or subsection (2) of this section.**