



FIR Labour Relations Ltd

## ADVISORY LETTER

BY E-MAIL

November 24, 2021

AL-07-21

**TO: ALL FIR ACCREDITED MEMBERS**

Gentlemen and Mesdames:

**Re: Paid Sick Days and “Meets or Exceeds”**

Further to our Advisory Letter AL-06-21, the provincial government has now announced their 5 days per year Sick Leave amendment to the Employment Standards Act.

This amendment does not necessarily apply to FIR member unionized workplaces. This is because the Employment Standards Act of B.C. (Section 3) contains a “meets or exceeds” criteria which indicates that if collective agreement provisions regarding rights and entitlements in respect of certain matters (in this case, paid illness or injury leave) meet or exceed the provisions in the Employment Standards Act (ESA), then the collective agreement provisions will apply.

FIR, along with CONIFER and IFLRA met with the Deputy Minister of Labour and subsequently sought legal advice regarding our Industry Weekly Indemnity Plans and whether their provisions would pass the “meet or exceed” test under Section 3 of the ESA.

We anticipate that a strong case can be made that our Industry Weekly Indemnity provisions, when considered together, will meet or exceed the 5 sick days that are being imposed and the Union should not be entitled to both wage indemnity benefits under the collective agreement as well as fully paid sick leave under the ESA.

Consequently, we will be sending shortly the attached letter, on behalf of all FIR accredited member companies, to the coastal Local Unions.

We will advise you of further developments.

Please contact us at your convenience should you wish to discuss any aspect of this matter.

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***FOREST INDUSTRIAL RELATIONS LTD.***

To:  
Brian Butler, President  
USW Local 1-1937

Mr. Al Biekša  
USW Local 1-2009

Via e-mail

**RE: FIR Collective Agreements Meet and Exceed ESA Paid Sick Leave**  
We write regarding the addition of ESA paid sick leave, commencing January 1, 2022.

The ESA paid sick leave is intended to compensate employees for workdays missed due to personal illness or injury, with a maximum of 5 days per year. For decades, all FIR collective agreements have provided for participation in the USW-Coastal Forest Industry Health and Welfare Plan, which includes

Weekly Indemnity Benefits (“WI Benefits”) for employees. The WI Benefits compensate employees for workdays missed due to personal illness or injury, with a maximum period of 26 weeks for any one illness or injury.

Accordingly, the WI Benefits easily exceed the ESA paid sick leave and as a result, the ESA paid sick leave does not apply to our member companies who provide WI Benefits to their employees. The following specific FIR member firms will be proceeding on that basis January 1, 2022:

- Stella Jones Inc. New Westminster Division
- Stella Jones Inc. Kanaka Creek Division
- Howe Sound Pulp. And Paper, Westcoast Cellulose Division
- Gisborne Construction (1985) Ltd.
- Goodwin Industrial Electrical
- A.C. Nelson Ltd.
- Q-Tech Services Ltd.
- Tebo Mill Construction Ltd.
- Nootka Sound Timber Ltd.
- Dyer Logging-Sayward Operation
- Holbrook Dyson Logging Ltd.
- Falt Towing
- Olympic Forest Products-McClinton Bay and Stillwater

If a determination is reached which concludes that WI Benefits do not meet or exceed the ESA paid sick leave, the result would be that the ESA paid sick leave would replace the WI Benefits. That would not be in the best interests of the impacted employees.

Please do not hesitate to contact Tom Getzie or Ross Stryvok with any questions or concerns

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