



WORKERS' HEALTH AND SAFETY LEGAL CLINIC

180 Dundas Street West, Suite 2000, Box 4, Toronto, Ontario M5G 1Z8

Tel: 416-971-8832 • Toll free: 1-877-832-6090 • Fax: 416-971-8834

www.workers-safety.ca

August 31, 2016

SUBMISSION TO THE CHANGING WORKPLACES REVIEW REGARDING PERSONAL EMERGENCY LEAVE

As per the *Employment Standards Act* (“*ESA*”), certain workers are entitled to a maximum of 10 days of unpaid Personal Emergency Leave per year. From the outset, it is important to note that the Toronto Workers’ Health and Safety Legal Clinic (now named the Workers’ Health and Safety Legal Clinic and referred to herein as the “WHSLC”) submits that the Personal Emergency Leave as it exists today is inadequate and should be improved to meet the needs of Ontario’s workers. The WHSLC has carefully reviewed and unequivocally endorses the submissions and recommendations made by the Workers’ Action Centre and by Parkdale Community Legal Services. The *ESA* is remedial legislation and currently does not meet the needs of the taxpayers and voters who work in Ontario and who rely on the *ESA* to protect their basic rights at work.

However, our submission does not end there. The WHSLC respectfully submits that additional changes ought to be made to the Personal Emergency Leave provisions found in the *ESA*.

Firstly, as noted in our original submission to the Changing Workplaces Review, the *ESA* should be amended in a manner that provides all workers with an entitlement to a minimum of one hour of paid sick time for every thirty five hours worked. This entitlement should be provided to all workers, not just the workers whose employer employs fifty or more workers. Under this suggestion, employees will not accrue more than fifty two hours of paid sick time in a calendar year unless the employer selects a higher limit. For a full time employee, this works out to approximately seven paid sick days per year.

Accordingly, the WHSLC maintains that the Personal Emergency Leave provisions should be amended to require that employees be paid when taking Personal Emergency Leave. The WHSLC submits that the ideal reform would entail employees being paid for all 10 days of Personal Emergency Leave. In the alternative, the WHSLC submits that the Changing Workplaces Review Special Advisors should adopt our recommendation as noted in above and in our original submission. In the further alternative, the WHSLC submits that the Changing Workplaces Review Special Advisors should determine how many of the Personal Emergency Leave days should be paid. The bottom line is that the *ESA* does not provide employees with ANY paid sick days, and this deficiency must be corrected immediately.

Secondly, the WHSLC submits that Option 3 regarding Personal Emergency Leave, as presented in the Interim Report, ought to be rejected. Frankly, 10 days for Personal Emergency Leave is not enough. Breaking down the existing Personal Emergency Leave into separate categories with fewer days in each category will lead to employees being unable to take time off when needed. The WHSLC unequivocally opposes Option 3 because Personal Emergency Leave in its existing form is already inadequate and Option 3 would make the situation worse for Ontario's employees.

That said, the WHSLC would certainly endorse the creation of additional forms of job-protected leaves from work that exist independently from and in addition to the 10 days of Personal Emergency Leave. For example, the WHSLC would endorse the creation of a stand-alone entitlement to 2 days of unpaid leave for bereavement, and also a stand-alone entitlement to 5 days of unpaid leave for child care. Personal Emergency Leave is not the only job-protected leave that is found in the *ESA*, and the creation of new forms of leave will benefit Ontario's employees only if the new forms of leave exist alongside and independently from the 10 days for Personal Emergency Leave.

Overall, the WHSLC submits that the Personal Emergency Leave framework as found in the *ESA* is insufficient in meeting the needs of Ontarians in 2016. The WHSLC completely endorses the submission and recommendations made by the Workers' Action Centre and Parkdale Community Legal Services. The WHSLC further submits that the Personal Emergency Leave framework as found in the *ESA* ought to be amended based on the submissions found herein.