

FTR Now

Clarification: Interaction between Paid IDEL and Contractual Paid Leave

Date: May 6, 2021

On May 3, 2021, we published an *FTR Now* providing an overview of the new paid infectious disease emergency leave (Paid IDEL) created by Bill 284, the *COVID-19 Putting Workers First Act, 2021*. In our publication, we addressed the interaction between the new Paid IDEL and contractual paid leave, and how the contractual entitlement would be assessed to reduce the statutory entitlement.

Following a further review of the legislation and discussions with policy representatives of the Ministry of Labour, Training and Skills Development, we are revising our original update on this important point as follows.

If an employee is entitled to take paid leave under an employment contract as of April 19, 2021, the employee's entitlement to Paid IDEL will be reduced by the number of days of the contractual entitlement provided two conditions are met:

1. the contractual paid leave must cover at least one of the circumstances for which the employee can take Paid IDEL, and
2. the amount that the employee is entitled to be paid in respect of the contractual leave must be at least equal to the amount of infectious disease emergency leave pay that would be owing under the ESA.

It would appear that this assessment is done in respect of each employee's available contractual entitlement as of April 19, 2021, and any offsetting contractual entitlements will reduce the number of Paid IDEL days available to the employee. Thus, for example, employees with a contractual entitlement as of April 19, 2021 to three or more sick leave days paid at 100% of regular wages would not have any entitlement to the new Paid IDEL. Such employees would use their paid contractual entitlement where applicable and would continue to be entitled to take unpaid IDEL for qualifying absences not covered by their contractual entitlements.

For a more detailed discussion of this issue, please refer to our revised *FTR Now*, [Ontario Enacts Legislation to Provide Paid Leave for Reasons Related to COVID-19](#).

If you have any questions about Paid IDEL, please contact your regular [Hicks Morley lawyer](#).