



## COVID-19 Comprehensive Update – What We Know So Far

The 2019 Novel Coronavirus or COVID-19 pandemic has had an unprecedented impact on the Canadian workforce. There is a lot of new information coming out every day. Our intent with this publication is to provide Ontario employers up to date relevant information regarding their existing and new obligations to employees. We will continue to monitor developments closely and will update this page as the situation evolves. This version was published at 3pm on April 12, 2020.

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## 1. What is New from the Provincial Government?

- [State of Emergency in Ontario \(March 17, 2020\)](#)

On Tuesday March 17, 2020, Ontario Premier Doug Ford declared a state of emergency in Ontario due to the Covid-19 pandemic. The Order grants the government extensive powers to make orders that the Lieutenant Governor in Council believes are necessary and essential in the circumstances to prevent, reduce or mitigate serious harm to persons or substantial damage to property” Such orders must only be in place for as long as necessary. Orders are deemed to be revoked after 14 days unless they are renewed. The orders may be made respecting the following:

1. Implementing any emergency plans
2. Regulating or prohibiting travel or movement to, from or within any specified area.
3. Evacuating individuals and animals and removing personal property from any specified area and making arrangements for the adequate care and protection of individuals and property.
4. Establishing facilities for the care, welfare, safety and shelter of individuals, including emergency shelters and hospitals.
5. Closing any place, whether public or private, including any business, office, school, hospital or other establishment or institution.
6. To prevent, respond to or alleviate the effects of the emergency, constructing works, restoring necessary facilities and appropriating, using, destroying, removing or disposing of property.
7. Collecting, transporting, storing, processing and disposing of any type of waste.



8. Authorizing facilities, including electrical generating facilities, to operate as is necessary to respond to or alleviate the effects of the emergency.
9. Using any necessary goods, services and resources within any part of Ontario, distributing, and making available necessary goods, services and resources and establishing centres for their distribution.
10. Procuring necessary goods, services and resources.
11. Fixing prices for necessary goods, services and resources and prohibiting charging unconscionable prices in respect of necessary goods, services and resources.
12. Authorizing, but not requiring, any person, or any person of a class of persons, to render services of a type that that person, or a person of that class, is reasonably qualified to provide.
13. Subject to subsection (7), requiring that any person collect, use or disclose information that in the opinion of the Lieutenant Governor in Council may be necessary in order to prevent, respond to or alleviate the effects of the emergency.
14. Consistent with the powers authorized in this subsection, taking such other actions or implementing such other measures as the Lieutenant Governor in Council considers necessary in order to prevent, respond to or alleviate the effects of the emergency.

Upon declaring a state of emergency, the government issued two orders immediately. The first ordered the immediate closure of:

- all facilities providing indoor recreational programs;
- all public libraries;
- all private schools as defined in the Education Act;
- all licensed childcare centres;
- all bars and restaurants, except to the extent that such facilities provide takeout food and delivery;
- all theatres including those offering live performances of music, dance, and other art forms, as well as cinemas that show movies; and
- concert venues.

The second order prohibited all organized public events of over 50 people.



This declaration of a state of emergency followed the provincial government's announcement on March 12th, 2020 that all public schools would be closed for a two-week period following march break (from March 14th to April 5th).

- [Ontario Government Creates Declared Emergency and Infectious Disease Emergency Leaves \(March 19, 2020\)](#)

On March 19, 2020 the Ontario Government passed Bill 186, the *Employment Standards Amendment Act (Infectious Disease Emergencies)*. The Bill eliminates the existing Declared Emergency leave and replaces it with new Emergency Leave: Declared Emergencies and Infectious Disease Emergencies.

The legislation will apply retroactively to January 25, 2020 (when the first presumptive case of COVID-19 was confirmed in Ontario) and will provide job-protected leave "because of an emergency declared under section 7.0.1 of the *Emergency Management and Civil Protection Act, and*":

- because of an order that applies to him or her made under section 7.0.2 of the *Emergency Management and Civil Protection Act*,
- because of an order that applies to him or her made under the *Health Protection and Promotion Act*,
- because he or she is needed to provide care or assistance to an individual referred to in the list below, or
- because of such other reasons as may be prescribed.

The legislation also provides a job protected leave for employees for the following reasons related to infectious disease:

- The employee is under individual medical investigation, supervision or treatment related to the designated infectious disease.
- The employee is acting in accordance with an order under the *Health Protection and Promotion Act* that relates to the designated infectious disease.
- The employee is in quarantine or isolation or is subject to a control measure (which may include, but is not limited to, self-isolation), and the quarantine, isolation or control measure was implemented as a result of information or directions related to the designated infectious disease issued to the public, in whole or in part, or to one or more individuals, by a public health official, a qualified health practitioner, Telehealth Ontario, the Government of Ontario,



the Government of Canada, a municipal council or a board of health, whether through print, electronic, broadcast or other means.

- The employee is under a direction given by his or her employer in response to a concern of the employer that the employee may expose other individuals in the workplace to the designated infectious disease.
- The employee is providing care or support to an individual from the list below because of a matter related to the designated infectious disease that concerns that individual, including, but not limited to, school or day care closures.
- The employee is directly affected by travel restrictions related to the designated infectious disease and, under the circumstances, cannot reasonably be expected to travel back to Ontario.
- Such other reasons as may be prescribed.

Employers are not permitted to ask for a medical note if employees choose to take infectious disease emergency leave. However, the employer may require employees who take the leave to provide other evidence that is reasonable in the circumstances, at a time that is reasonable in the circumstances. This could include requests for a note from the daycare or for evidence that the airline cancelled a flight but cannot include a medical note.

An employee will be able to take declared or infectious disease emergency leave to care for the following individuals:

- The employee's spouse.
- A parent, stepparent or foster parent of the employee or the employee's spouse.
- A child, stepchild or foster child of the employee or the employee's spouse.
- A child who is under legal guardianship of the employee or the employee's spouse.
- A brother, stepbrother, sister or stepsister of the employee.
- A grandparent, step-grandparent, grandchild or step-grandchild of the employee or the employee's spouse.
- A brother-in-law, step-brother-in-law, sister-in-law or step-sister-in-law of the employee.
- A son-in-law or daughter-in-law of the employee or the employee's spouse.
- An uncle or aunt of the employee or the employee's spouse.
- A nephew or niece of the employee or the employee's spouse.
- The spouse of the employee's grandchild, uncle, aunt, nephew or niece.



- A person who considers the employee to be like a family member, provided the prescribed conditions, if any, are met.
- Any individual prescribed as a family member for the purposes of this section.

The amendment allows the government to among other things, make regulations designating an infectious disease, setting the date entitlement to emergency leave begins, exempting a class of employees from entitlement to emergency leave or even extending entitlement to infectious disease emergency leave when it would otherwise end. As of March 20, 2020, the government issued Ontario Regulation 66/20 listing “diseases caused by a novel coronavirus” including COVID-19 as designated infectious diseases. It also deemed the regulation to come into effect on January 25, 2020. No exemption regulation has been issued.

#### Who is Eligible for the Infectious Disease Emergency Leave?

Most full-time and part-time provincial employees in Ontario are covered by the provisions in this legislation, including students, temporary help agency assignment employees, and casual workers. As noted, the government may publish regulations exempting some employees from all or parts of the leave entitlement. As of the time of publication, no regulations had been published.

Like all other protected leaves, employees who exercise their right to Infectious Disease Leave are entitled to the following protections:

- Employees cannot be subject to employer reprisal for accessing the leave;
  - Employees are entitled to benefit continuation during the leave if the employee continues to pay their portion of the premiums;
  - Employees are entitled to reinstatement to their position at the end of the leave, if it still exists, or to a comparable position, if it does not.
- [Ontario Government Suspends Limitation Periods and Filing Deadlines \(March 20, 2020\)](#)

On March 20, 2020, the Ontario Government filed Ontario regulation 73/20 under the Emergency Management and Civil Protection Act. The Regulation retroactively suspends limitation periods effective March 16, 2020. It also extends and “period of time within which any step must be taken in any proceeding in Ontario, including any intended proceeding, shall, subject to the discretion of the court, tribunal or



other decision-maker responsible for the proceeding, be suspended for the duration of the emergency”.

- [Ontario Ministry of Health & Long-Term Care Issues Temporary Order Lifting Collective Agreement Restrictions on Redeploying Hospital Employees \(March 21, 2020\)](#)

On March 21, 2020, the Ontario government issued an order giving hospitals the ability to cancel and postpone services to free-up space and staff, identify staffing priorities, and develop, modify and implement redeployment plans.

Under this temporary order hospitals will be able to respond to, prevent and alleviate an outbreak of COVID-19 by carrying out measures such as:

- Redeploying staff within different locations in (or between) facilities of the hospital;
- Redeploying staff to work in COVID-19 assessment centres;
- Changing the assignment of work, including assigning non-bargaining unit employees or contractors to perform bargaining unit work;
- Changing the scheduling of work or shift assignments;
- Deferring or cancelling vacations, absences or other leaves, regardless of whether such vacations, absences or leaves are established by statute, regulation, agreement or otherwise;
- Employing extra part-time or temporary staff or contractors, including for the purpose of performing bargaining unit work;
- Using volunteers to perform work, including to perform bargaining work; and
- Providing appropriate training or education as needed to staff and volunteers to achieve the purposes of a redeployment plan.

When utilized by hospitals, these redeployment plans temporarily supersede the provisions of a collective agreement, including lay-off, seniority/service or bumping provisions. The Order also suspends the grievance procedure for any grievances *related to the issues covered by the Order*.



- [Ontario Government Addresses Redeployment in Long Term Care and Ontario Clean Water Agency \(March 23, 2020\)](#)

On March 23, 2020, the Ontario issued Orders to provide long-term care homes and the Ontario Clean Water Agency with greater flexibility with respect to staffing.

Similar to the order with respect to hospital staffing, Regulation 77/20 and Regulation 75/20 provide long-term care homes and the Ontario Clean Water Agency with authority to temporarily override collective agreement provisions when identifying staffing priorities and instituting redeployment plans.

- [Ontario Government Issues Temporary Order Declaring Closure of all Non-Essential Business \(March 23, 2020\)](#)

Effective 11:59 pm on March 24, 2020, the Ontario government ordered the closure of non-essential businesses. The order was enacted under the *Emergency Management and Civil Protection Act* as Ontario Regulation 82/20.

Under the Regulation, temporary access to closed businesses is permitted for some purposes including:

- a) Performing work at the place of business in order to comply with any applicable law;
- b) allowing for inspections, maintenance and repairs to be carried out at the place of business;
- c) allowing for security services to be provided at the place of business; and
- d) attending at the place of business temporarily,
  - i) to deal with other critical matters relating to the closure of the place of business, if the critical matters cannot be attended to remotely; or
  - ii) to access materials, goods or supplies that may be necessary for the business to be operated remotely.

The Regulation also includes the list of essential workplaces that are permitted to remain open. The list can be located at the following link:

<https://www.ontario.ca/page/list-essential-workplaces>

All businesses defined as non-essential are permitted to continue to operate remotely (without attending the place of business) either (a) providing

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goods by mail or other forms of delivery or making goods available for pick up, or (b) providing services online, by telephone or other remote means.

- [Ontario Announces Action Plan: Responding to COVID-19 \(WSIB Premium Deferral\) \(March 25, 2020\)](#)

On March 25, 2020, the Ontario government announced its action plan for responding to COVID-19. Several measures were announced including a WSIB financial relief package. Details of the package are as follows:

The financial relief package allows businesses to defer premium reporting and payments until August 31, 2020. Businesses who report and pay monthly, quarterly or annually based on their insurable earnings are eligible for this deferral.

Each customer reports and pays on the previous full month or quarter, for example March 31 reporting and payment obligation covers the period of February 1-29. The following payments are eligible for deferral:

- Monthly: March 31, April 30, May 31, June 30, July 31, Aug 31
- Quarterly: April 30, July 31
- Annual: April 30

The relief package also applies to Schedule 2 organizations – publicly funded organizations (municipalities, hospitals, school boards), and other businesses who are involved in federally regulated industries. All payment obligations (weekly and monthly) for Schedule 2 businesses will be deferred until August 31, 2020.

No interest will accrue on outstanding premium payments for Schedule 1 businesses and no penalties will be charged during this six-month deferral period. Schedule 2 account balances will not accrue debit interest as part of the financial relief package.

- [Ontario Publishes Health and Safety Guidelines for Construction Sites \(March 29, 2020\)](#)

Ontario has published health and safety guidance for construction sites in light of COVID-19.

The guidance includes the following:

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- reminder that workers should raise any concerns regarding health and safety with their supervisor and/or (as applicable) joint health and safety committee or health and safety representative;
- on-site best practices;
- reporting employee illnesses;
- posting employer policies, which should include topics such as: sanitization of sites, reporting illnesses, physical distancing and scheduling work;
- recommendations regarding:
  - how to ensure physical distancing and on-site sanitation;
  - adjusting on-site and production schedules;
  - tracking and monitoring the workforce.

The guide also notes that employers can contact local public health units for questions on workplace infection prevention and control related to COVID-19 infections. And, additional resources, policies and procedures are being developed to provide additional support in this area.

- [Ontario and the City of Toronto extend Emergency Declaration and Closures of Non-Essential Workplaces, Services and Cancellation of Events \(March 30, 31, 2020\)](#)

On March 30, 2020, the Ontario Government extended the Declaration of Emergency and associated emergency measures, including the closure of non-essential workplaces and restrictions on social gatherings. In addition, the Ontario Government is in the course of issuing a new emergency order under the Emergency Management and Civil Protection Act to close all outdoor recreational amenities, such as sports fields and playgrounds, effective immediately. These actions are based on the advice of the Chief Medical Officer of Health.

On March 31, 2020, the Ontario Government, on the advice of the Chief Medical Officer of Health, has extended the closure of all public schools and child care centres until Monday, May 4, 2020, to protect the health and safety of students and staff. The government will be launching the “second phase” of the Learn at Home program to establish clarity for parents, enhance education supports, and create opportunities for teachers to connect with students.



On March 31, 2020, the City of Toronto announced the cancellation of all city-led events through to June 30, 2020.

- [Ontario Issues a Directive on Health and Safety Standards for Nurses in Hospitals \(March 30, 2020\)](#)

Per the [press release](#), this directive outlines:

- Precautions for interactions with suspected, presumed or confirmed COVID-19 patients, including relying on the clinical education and training that nurses receive to use their professional and clinical judgement;
- Point-of-care risk assessments for every patient interaction to assess appropriate health and safety measures; and
- Training on safe use of all personal protective equipment (PPE).

The Chief Medical Officer of Health (CMOH), Ministry of Health (MOH), Ministry of Labour, Training and Skills Development (MLTSD), and Ontario Nurses Association published a [joint statement](#) to clarify the approach in Ontario's hospital system.

- [Ontario Issues Order re Board of Health Redeployment \(April 2, 2020\)](#)

The Ontario government has issued an Order ([Regulation 116/20](#)) to provide Boards of Health with greater flexibility with respect to staffing.

This is similar to earlier orders issued with respect to [hospitals](#), [long term care](#) and the [Ontario Clean Water Agency](#).

- [Ontario Issues Order to Provide Retirement Homes with Greater Flexibility with Respect to Staffing \(April 2, 2020\)](#)

The Ontario government has issued an Order ([Regulation 118/20](#)) to provide Retirement Homes with greater flexibility with respect to staffing.

This is similar to earlier orders issued with respect to Boards of Health, hospitals and the long term care homes.



- [Ontario Ministry of Labour Publishes Posters for Construction Sites \(April 2, 2020\)](#)

The Ontario Ministry of Labour published posters regarding physical distancing for construction sites that are continuing to operate.

- [Ontario Narrows the List of Essential Businesses Permitted to Continue Operating \(April 3, 2020\)](#)

Ontario amended the Order (Regulation 82/20) regarding the closure of non-essential services. This includes a revised list of essential businesses that are permitted to continue operating during the COVID-19 pandemic, and additional compliance requirements for those businesses.

Construction projects permitted to continue include:

1. Construction projects and services associated with the healthcare sector, including new facilities, expansions, renovations and conversion of spaces that could be repurposed for health care space.
2. Construction projects and services required to ensure safe and reliable operations of, or to provide new capacity in, critical provincial infrastructure, including transit, transportation, energy and justice sectors beyond the day-to-day maintenance.
3. Critical industrial construction activities required for,
  - the maintenance and operations of petrochemical plants and refineries,
  - significant industrial petrochemical projects where preliminary work has already commenced,
  - industrial construction and modifications to existing industrial structures limited solely to work necessary for the production, maintenance, and/or enhancement of Personal Protective Equipment, medical devices (such as ventilators), and other identified products directly related to combatting the COVID-19 pandemic.
4. Residential construction projects where,



- o a footing permit has been granted for single family, semi-detached and townhomes
  - o an above grade structural permit has been granted for condominiums, mixed use and other buildings, or
  - o the project involves renovations to residential properties and construction work was started before April 4, 2020.
5. Construction and maintenance activities necessary to temporarily close construction sites that have paused or are not active and to ensure ongoing public safety.

Businesses continuing to operate must operate in accordance with all applicable laws, including the *Occupational Health and Safety Act*, and advice, recommendations and instructions of public health officials. Retail businesses (except for pharmacies and businesses primarily selling food and beverages at retail) must, to the fullest extent possible, restrict public access and provide alternative methods of sale such as curbside pick-up or delivery.

- [Access to COVID-19 Status Information of Individuals for First Responders \(April 6, 2020\)](#)

Ontario issued an Order ([Regulation 120/20](#)) to enable first responders to request COVID-19 status information on individuals. First responders include police, firefighters and paramedics.

- [Increased Staffing Flexibility for Service Agencies that Support Persons with Developmental Disabilities \(April 6, 2020\)](#)

In Order ([Regulation 121/20](#)) Ontario provided service agencies that support persons with developmental disabilities with greater flexibility with respect to staffing. This is similar to earlier orders issued with respect to retirement homes, Boards of Health, hospitals and the long term care homes. The Order also limits certain requirements related to documentation, staffing and care.



- [Additional Enforcement Measures & Extended Construction Hours \(April 8, 2020\)](#)

The Ontario government published a [press release](#), which covers issues ranging from additional measures to make essential workplaces safer to extended hours for construction work on healthcare facilities.

To make workplaces that have been designated as essential safer, the Ontario government announced the following initiatives:

- Redeploying more than 30 employment standards officers to help businesses understand and comply with health and safety requirements;
- Working with health and safety associations to deploy up to 30 specialists to support employers and workers in the field;
- Issuing health and safety guidance notes to support specific sectors;
- Doubling the capacity of Ontario's Health and Safety Call Centre from 25 to 50 phone lines;
- Providing job-protected leave under the *Employment Standards Act, 2000* for workers who need to self-isolate or care for a loved one because of COVID-19;
- Issuing a call to recently-retired inspectors who may be able and willing to return to their positions;
- Providing compliance assistance and enforcing the emergency orders issued under the *Emergency Measures and Civil Protection Act*.

Temporary new rules apply for construction of key facilities, such as new hospital builds, expansions, temporary COVID-19 response units or structures, and COVID-19 assessment centres, including:

- extending construction hours to 24 hours per day;
- temporarily limiting local noise bylaws from applying to these types of essential construction activities beginning April 7, 2020.

- [List of Essential Businesses Amended \(April 11, 2020\)](#)

Ontario published Regulation 136/20 amending the the Order ([Regulation 82/20](#)) regarding the closure of non-essential services. The amendment adds another construction project to the list of essential businesses.



Construction projects that are due to be completed before October 4, 2020 and that would provide additional capacity in the production, processing, manufacturing or distribution of food, beverages or agricultural products.

- [Emergency Orders Extended \(April 11, 2020\)](#)

Ontario [announced](#) that its emergency orders have been extended to April 23, 2020. In addition, new measures have been introduced to:

- address surge capacity in retirement homes (i.e., temporarily enabling hospitals to increase their capacity by using the beds and services of retirement homes without certain labour relations implications); and
- allow the repurposing of existing buildings and temporary structures (i.e., for health care purposes).

The following orders have been extended:

- [Closure of public places and establishments with exemption for emergency child care for health care and frontline essential service workers](#)
- [Prohibiting events and gatherings of more than five people](#)
- [Work deployment for health service providers](#)
- [Drinking water and sewage](#)
- [Electronic service of documents](#)
- [Work deployment for long-term care homes](#)
- [Electricity pricing](#)
- [Closure of non-essential workplaces](#)
- [Traffic management](#)
- [Streamlining requirements for long-term care homes](#)
- [Prohibiting unfair pricing for necessary goods](#)
- [Enforcement of orders](#)
- [Work deployment for boards of health](#)
- [Work deployment measures in retirement homes](#)
- [Access to COVID-19 status information by specified persons](#)
- [Service agencies providing services and supports to adults with developmental disabilities](#)
- [Pick up and delivery of cannabis](#)
- [Signatures in wills and powers of attorney](#)
- [Use of force and firearms in policing services](#)
- [Closure of outdoor recreational amenities](#)



- [Status of Ontario Courts and Tribunal Proceedings](#)

**Supreme Court of Canada:** The Supreme Court of Canada's announcement was on March 16, 2020 advising that it has rescheduled hearings scheduled for March 24, 25 and 26. All other currently scheduled hearings remain on the agenda until further notice. Parties may seek adjournments or request to appear via teleconference or video link. The Court will continue to issue judgments on applications for leave and on appeal for the time being.

**Ontario Court of Appeal:** On April 6, 2020, the Court of Appeal [issued a practice direction](#) that during the COVID-19 emergency, all appeals would be conducted by remote appearance or in writing.

**Ontario Superior Court:** The Ontario Superior Court of Justice suspending regular operations until further notice. The Court will continue to hear urgent matters during this emergency period where immediate and significant financial repercussions may result if there is no judicial hearing. All criminal, family and civil matters scheduled to be heard on or after Tuesday March 17, 2020 are adjourned. This includes all telephone and videoconference appearances scheduled prior to March 17, 2020, unless the presiding judicial officer directs otherwise. In the weeks ahead, the Court will finalize a plan to resume regular operations including the establishment of a Return to Operations Scheduling Court, where matters that have been adjourned will be rescheduled.

On March 24, 2020, the Court expanded the Civil Claims Online system to allow more documents to be filed online.

Starting on April 6, 2020, matters in addition to “urgent” matters will begin to be heard in the Ontario Superior Court of Justice. The complete list of civil and family matters that may be heard in each region is contained in region-specific Notices to the Profession, issued April 2, 2020, which include the process to seek a hearing are available at:

- Central East ([civil](#), [family](#))
- [Central South](#)
- [Central West](#)
- [East](#)



- [North East](#)
- [North West](#)
- [Southwest](#)
- [Toronto](#)

**Human Rights Tribunal of Ontario:** In-person hearings are postponed and rescheduled to a later date. Where feasible, alternative hearing options such as written and telephone hearings will be considered to minimize disruption to hearings across the organization. In addition, all front-line counter services will be closed until further notice. The Tribunal is extending timelines where parties are unable to meet them.

**Ontario Labour Relations Board:** In person hearings are cancelled up to and including May 4, 2020. The Ontario Labour Relations Board will not be suspending the time periods in which steps must be taken in its proceedings and will be processing applications in the usual course. All filings must be electronic. The Board will process the highest priority matters first. Where possible, matters will be referred to mediation by teleconference or email. Parties may continue to make submissions requesting hearings by teleconference or videoconference or any other alternative means. Applications for certification/termination/displacement will not proceed if the employer's business is closed due to the public health situation.

**The Workplace Safety and Insurance Appeals Tribunal:** The WSIAT is postponing all in-person hearings that were scheduled from March 16, 2020 until April 17, 2020. In addition, effective March 30, 2020 to April 14, 2020, the WSIAT is also suspending all on-site services. Until further notice, the WSIAT's offices are closed, including the Ontario Workplace Tribunals Library and the WSIAT mail room. Mail, courier or faxes to the Tribunal will not be received. After normal operations resume, the WSIAT will accept Notice of Appeal (NOA) forms that are filed outside of the six-month time period in section 125(2) of the WSIA.



## 2. What Is Not New - But We Need to Know Under Provincial Law?

- *Occupational Health & Safety Act (OHSA) and Work Refusals*

Employers have legislative obligations requiring them to ensure that they take reasonable measures to protect the health and safety of workers. What is reasonable will depend on each individual organization and workplace.

Under the OHSA workers can refuse to perform work they feel is unsafe. An employer has a duty to investigate and determine whether the safety risk has been resolved. If the employee disagrees with the employer's decision, they can escalate the matter to the Ministry of Labour.

There are two limitations on the right to refuse unsafe work. First, if the dangers or hazards are inherent to the worker's work or are normal conditions of the workers employment. The second limitation is where it would directly endanger the life, health or safety of another person. Employees to whom these limitations may apply are entitled to the same procedural protections as other employees which means that if they refuse work on the basis that it is unsafe, the employer must follow the work refusal process under the legislation including involving the Ministry of Labour if the issue cannot be resolved.

An employee may refuse to perform work as a result of COVID-19. An employee may have safety concerns if a colleague has been diagnosed with COVID-19 or if their personal health circumstances put them at risk. Whether their refusal is justified will be contingent upon various factors including, the workers personal characteristics, the state of COVID-19 in the worker's city or region, the type of workplace, and the measures adopted by the employer to combat the pandemic.

- *Employment Standards Act, 2000 (ESA)*

### **Lay-Offs**

Under the ESA, employers may lay-off employees temporarily without triggering notice obligations or severance.



For non-union employees there is a risk that an employee may claim that a temporary lay-off constitutes constructive dismissal or breach of contract under the common law. It is a matter of debate whether this applies in the context of a pandemic or if a lay-off due to a pandemic can be considered a “frustration of contract”.

### **Duration of Temporary Lay-Offs**

In Ontario, a temporary lay-off is a lay-off of less than:

- 13 weeks in any consecutive 20 weeks; or
- 35 weeks in any period of 52 weeks where:
  - The employee receives substantial payments from the employer;
  - The employer continues to make payments for benefits or a legitimate retirement or pension plan;
  - The employee receives supplementary unemployment benefits (SUBP – see below); or
  - The employee is employed elsewhere during the lay-off and would be entitled to receive a SUBP if they were not so.
  - The employer recalls the employee within the time approved by the director, or
  - In the case of an employee who is not represented by a trade union, the employer recalls the employee within the time set out in an agreement between the employer and the employee.

For unionized employees, there is an additional category of “temporary lay-offs” that may exceed 35 weeks in a period of 52 weeks where the employer “recalls the employee within the time set out in an agreement between the employer and the trade union”. This provision of the Act has been interpreted by labour arbitrators as extending the period of a temporary lay-off for as long as the recall rights available to the employee under the collective agreement. However, after 35 weeks of lay-off (in a period of 52 weeks), the employer must give the employee the option to elect to receive their termination entitlements (notice and severance), or to keep their recall rights. Where employees elect to keep their recall rights, the union can require the employer to place the termination entitlements into trust.

### **Other Leaves of Absence**



In addition to the new Infectious Disease Leave, the ESA also includes a number of other leaves that may be applicable. Employees are not limited to only one type of leave. All leaves are available. If employees meet the eligibility criteria for more than one leave, they may take all that they qualify for. The following chart summarizes the leaves that may be applicable to Covid-19 absences.

As already noted above, employees who take statutory leaves are entitled to the following protections

- Employees cannot be subject to employer reprisal for accessing the leave;
- Employees are entitled to benefit continuation during the leave if the employee continues to pay their portion of the premiums;
- Employees are entitled to reinstatement to their position at the end of the leave, if it still exists, or to a comparable position, if it does not.

▪ [ESA Leaves Chart](#)

The following chart summarizes the different leaves that may be applicable to COVID-19 related absences from work.

Type of Leave	Required Service	Duration	Medical or other Evidence Employer can Request	Purpose of Leave	Persons Ineligible for Leave
<b>New Declared Emergency Leave (retroactive effect to January 25, 2020)</b>	None	As long as Declared Emergency is in effect	No medical documentation required	Because of an emergency declared under section 7.0.1 of the Emergency Management and Civil Protection Act and, (a) an order that applies to the employee under section 7.0.2 of the Emergency Management and Civil Protection Act, (b) an order that applies to the employee made under the <i>Health Protection and Promotion Act</i> , (c) the employee is needed to provide care or assistance to family member	The Lieutenant Governor in Council may exempt a class of employees from this leave or any provision of it. No exemptions regulations published to date.



HUNTER-LIBERATORE-LAW

Type of Leave	Required Service	Duration	Medical or other Evidence Employer can Request	Purpose of Leave	Persons Ineligible for Leave
<b>New Infectious Disease Emergencies Leave (retroactive effect to January 25, 2020)</b>	None	As long as Infectious Disease Emergency is in effect	No medical documentation required	absence due to: a) medical investigation or treatment for COVID-19, b) order under HPPA or from Public Health, c) isolation or quarantine, d) employer direction not to work, e) provision of care or assistance to a family member for a reason related to Declared Emergency, Infectious Disease, or school or daycare closure, or f) travel restrictions that prevent travel back to Ontario	The Lieutenant Governor in Council may exempt a class of employees from this leave or any provision of it. No exemptions regulations published to date.
<b>Sick Leave</b>	2 weeks	3 days per year	Evidence reasonable in the circumstances may be requested	absence due to personal illness, injury or medical emergency	Employees with professional obligations* may be exempt if the entitlement would constitute an act of professional misconduct or a dereliction of a professional duty
<b>Family Responsibility</b>	2 weeks	3 days per year	Evidence reasonable in the circumstances may be requested	to provide care to a family member who is ill, injured or has a medical emergency or any other urgent matter	Employees with professional obligations* may be exempt if the entitlement would constitute an act of professional misconduct or a dereliction of a professional duty



HUNTER-LIBERATORE-LAW

Type of Leave	Required Service	Duration	Medical or other Evidence Employer can Request	Purpose of Leave	Persons Ineligible for Leave
<b>Family Caregiver</b>	None	8 weeks per family member per year	A certificate from a qualified health professional stating that the family member has a serious medical condition may be requested.	to provide care or support to a family member that has a serious medical condition including chronic or episodic conditions	
<b>Critical Illness (for care of a child who is a family member under 18)</b>	6 months	up to 37 weeks**	A certificate from a qualified health professional stating that the child is critically ill and requires the care and support of a family member	to provide care or support to a minor child who is a family member that is critically ill	
<b>Critical Illness (for care of adult family member )</b>	6 months	up to 17 weeks**	A certificate from a qualified health professional stating that the adult is critically ill and requires the care and support of a family member	to provide care or support to a family member that is critically ill	
<b>Family Medical</b>	None	28 weeks	A certificate from a qualified health professional stating that the family member has a serious medical condition with a significant risk of death within 26 weeks may be requested.	to provide care or support to a family member who has a serious medical condition with a significant risk of death within 26 weeks or less	

*\* Employees with Professional Obligations are defined as: architects, lawyers, professional engineers, accountants, surveyors, veterinarians, naturopaths, teachers, students in training for the aforementioned professions, and registered practitioners of a health profession covered by the Regulated Health Professions Act*

**\*\*leaves may be extended or new leaves granted in certain circumstances**



- *Ontario Human Rights Code (Code)*

The Ontario Human Rights Commission has published the following policy position regarding Covid-19:

“The OHRC’s policy position is that negative treatment of employees who have, or are perceived to have, COVID-19, for reasons unrelated to public health and safety, is discriminatory and prohibited under the Code. Employers have a duty to accommodate employees in relation to COVID-19, unless it would amount to undue hardship based on cost, or health and safety.

An employer should not send an individual employee home or ask them not to work because of concerns over COVID-19 unless the concerns are reasonable and consistent with the most recent advice from medical and Public Health officials. In unique circumstances, an employer might have other health and safety concerns that could amount to undue hardship. They would need to be able to show objective evidence to support such a claim.

Employer absenteeism policies must not negatively affect employees who cannot work in connection with COVID-19. An employer may not discipline or terminate an employee who is unable to come to work because medical or health officials have quarantined them or have advised them to self-isolate and stay home in connection with COVID-19.

An employee who has care-giving responsibilities should be accommodated to the point of undue hardship, which might include staying home. These care-giving responsibilities which relate to the Code ground of family status could include situations where another family member is ill or in self-isolation, or where their child’s school is closed due to COVID-19.”

It is important to note that the Ontario Human Rights Commission policy positions are not law and any human rights issues related to Covid-19 need to be considered based on the provisions of the Code. We note that many of the Commission’s statements about accommodating child and elder care and not disciplining or terminating employees who cannot work due to quarantine, are codified with the new Infectious Disease Leave under the ESA.



- *Workplace Safety and Insurance Act*

The WSIB has published the following regarding entitlement to WSIB benefits arising from Covid-19:

“Multiple potential sources of COVID-19 may now exist at work and at home creating challenges in establishing work-relatedness when adjudicating claims.

For a COVID-19 claim to be allowed, evidence must show that the person’s risk of contracting the disease through their employment is greater than the risk to which the public at large is exposed and that work significantly contributed to the person’s illness.

To determine the work-relatedness of COVID-19 claims, the WSIB will look at details such as the person’s employment activities, their symptoms and whether they have a diagnosis of COVID-19.

While the nature of some people’s work may put them at greater risk of contracting the virus, for example those treating someone with COVID-19, this is a constantly evolving situation and any claims received by the WSIB will need to be adjudicated on a case-by-case basis, taking into consideration the facts and circumstances.”

Please note: The WSIB does not provide coverage for people who are symptom-free even when quarantined or sent home on a precautionary basis. However, should someone who is symptom-free develop symptoms or illness while on quarantine, they may be eligible for WSIB coverage.”

On April 3, 2020, the WSIB issued the following filing instructions:

If your client has a COVID-19 related workers compensation claim, the WSIB has provided filing instructions:

- If **your client contracted COVID-19 while at work** (has a diagnosis or symptoms of COVID-19), you may [file a claim](#) to determine if eligible for WSIB coverage.
- If **your client believes they were exposed to COVID-19 while at work**, but is **not ill** at this time (does not have a diagnosis or symptoms of COVID-19), please **do not** file a claim. Instead, you can file an exposure incident form



through our Program for Exposure Incident Reporting (PEIR) or Construction Exposure Incident Reporting (CEIR) programs. These are voluntary reporting programs and your client will be assigned an incident number. If they become ill in the future, we'll be able to process their claim faster.

To report an exposure, please complete and fax the appropriate form below to 1-888-313-7373 or call the WSIB at 1-800-387-0750, Monday to Friday, from 7:30 a.m. to 5 p.m. All industries (except construction): [Worker's Exposure Incident Form \(PDF\)](#) or [Employer's Exposure Incident Form \(PDF\)](#). Construction sector: [Worker's Construction Exposure Incident Form \(PDF\)](#) or [Employer's Construction Exposure Incident Form \(PDF\)](#). For additional information, please visit the [WSIB website](#).

### **3. What is New from the Federal Government?**

The federal government has made some changes to existing employment insurance benefits and introduced new benefits including:

- Extending EI sick benefits to employees required to self-isolate due to Covid-19
- Eliminating the 1 week waiting period for EI sick benefits (including for quarantine/self-isolation)
- Waiving the requirement for a medical certificate for Covid-19 related sick benefits
- Extending the EI Work Sharing Program to Covid-19 related work reductions and extending the period the program can be in place to 78 weeks
- Introducing the Canada Emergency Response Benefit
- Extending the EI Work Sharing Program to include Government owned establishments engaged in activities that are not purely governmental in nature such as Lottery and Gaming Corporations (OLG), Public Universities and Colleges and Public Transit Groups.
- Introducing Canada Emergency Wage Subsidy of up to 75%



Below we will provide more detail regarding each of these programs and the existing EI programs that employers and employees may access due to Covid-19 absences from work or reductions in work.

- **EI – Sick Benefits**

*Effective April 6, 2020, all individuals who have stopped working due to COVID-19 illness or quarantine/self-isolation will be directed to apply for the CERB benefits and not EI Sick Benefits.*

Minimum insurable hours requirement

Employees must have 600 insurable hours in the qualifying period. The qualifying period is one of:

- the 52-week period immediately before the start date of the claim; or
- the period since the start of a previous EI benefit period, if that benefit period started during the last 52 weeks.

Eligible Workers

- Employees who are sick and don't have sick benefits with their employer
- Employees who are quarantined/self-isolating:
  - Under federal or provincial legislation
  - Under order of a public safety officer
  - By recommendation of a public safety officer and the employee has been instructed to do so by an employer, nurse, physician or any other similar person or authority
- Voluntarily because a family member or close relative with whom the employee has had contact has been quarantined

Medical certificates

The requirement of a medical certificate does not apply for the Covid-19 related benefits.

Waiting period

Effective March 15, 2020, the one week waiting period is waived for claimants who are impacted by Covid-19



## Benefit

Up to 15 weeks at 55% of the employee's average insurable weekly earnings up to a maximum of \$573.00

## Where do employees apply?

<https://www.canada.ca/en/services/benefits/ei.html>

## Eligible for Supplementary Unemployment Benefit Plan (SUBP) Top-up (see more details below)?

Yes

- [Canada Emergency Response Benefit \(CERB\)](#)

On March 25, 2020, the federal government passed new legislation creating a new federal benefit available to most Canadians. The CERB is not part of the EI regime and provides benefits to workers who do not meet the EI insurable hour requirements or otherwise do not qualify for EI benefits.

## Eligible Workers

The new benefit will cover employees, contract workers, and self-employed workers who cease working for reasons related to COVID-19 for at least 14 consecutive days within the four-week period in respect of which they apply for the payment. Reasons could include that workers:

- have lost their job,
- are sick or quarantined,
- are parents who must stay home without pay to care for children,
- have no income due to the COVID-19 slowdown, but who haven't yet been officially laid off.

On April 1, 2020, the government published more details regarding the benefit in a [backgrounder](#) and [press release](#), which included the following details:

- **Amount:** \$2,000 every four weeks. Where circumstances continue, individuals can re-apply for additional 4-week periods, up to a maximum of 16 weeks (or 4 periods).



- **Timeline:** March 15, 2020, to October 3, 2020. Applications must be made by December 2, 2020.
- **Eligibility:** To be eligible, workers must:
  - have stopped working due to COVID-19;
  - be without (or expect to be without) any income for at least 14 consecutive days during the initial 4-week period;
  - be at least 15 years of age and resident in Canada; and
  - have a total income of at least \$5000 in 2019 or the preceding 12-month period from employment, self-employment, maternity and parental benefits under the Employment Insurance program and/or similar benefits paid in Quebec under the Quebec Parental Insurance Plan.
- The CERB is also available to workers who, after March 15, are eligible for Employment Insurance regular or sickness benefits.
- **Application Process:** Applications open on April 6, 2020 at [www.Canada.ca/coronavirus](http://www.Canada.ca/coronavirus)

Applicants will be asked simple questions that help direct them to one of two service options:

- Canadians who would generally be eligible for EI benefits will be directed to apply for the CERB through Service Canada through Appliweb; or
- Canadians who would generally not be eligible for EI benefits will be directed to apply for the CERB through the CRA's MyAccount or CRA's automated toll-free line at 1-800-959-2019.

Applicants will need to affirm that they meet the eligibility criteria and information that individuals provide during the application process may be verified at a later time.

Applicants are encouraged to apply based on their birth month as follows:

Month of Birth	Day to Apply	Best Day to Apply
January, February or March	Mondays	April 6
April, May, or June	Tuesdays	April 7
July, August, or September	Wednesdays	April 8
October, November, or December	Thursdays	April 9



Any month	Fridays, Saturdays and Sundays	
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What if an employee is already receiving EI benefits?

Individuals who applied for EI prior to April 6th can continue with their EI application and, if already approved for EI, will continue to receive EI as long as they qualify. If the employee's EI benefits end before October 3, 2020, and the employee is still unable to return to work, the employee can apply to the CERB once the employee's EI benefits end.

Can employees still apply for EI after April 6, 2020?

It appears that anyone who stopped working because of COVID-19 is being directed to apply for CERB, not EI. For other EI benefits, including maternity, parental, caregiving, fishing and worksharing, individuals are directed to apply for EI.

Do Employers Need to Issue Records of Employment (ROE) so Employees can Apply for CERB?

If employees are directly affected by the coronavirus (COVID-19) and they are no longer working, employers must issue an ROE.

- When the employee is sick or quarantined, use code D (Illness or injury) as the reason for separation (block 16).
- When the employee is no longer working due to a shortage of work because the business has closed or decreased operations due to coronavirus (COVID-19), use code A (Shortage of work).
- When the employee refuses to come to work but is not sick or quarantined, use code E (Quit) or code N (Leave of absence), as appropriate.

Service Canada is requesting that comments not be added to the ROE unless absolutely necessary.

What if an employee received the CERB and continues to be sick or unemployed after October 3, 2020?

If the employee has enough EI insurable hours, the employee can access normal EI benefits after the 16-week period covered by the CERB.



### Is the CERB eligible for a SUBP top up?

At time of publication its is unclear how the CERB interacts with EI SUBP top ups.

- **Regular EI Benefits**

*As noted above, effective April 6, 2020, all individuals who have stopped working due to COVID-19 will be directed to apply for the CERB benefits and not Regular EI Benefits.*

### Minimum insurable hours requirement

The employee must have between 420 and 700 insurable hours in the qualifying period (depending on the economic region). The qualifying period is one of:

- the 52-week period immediately before the start date of the claim; or
- the period since the start of a previous EI benefit period, if that benefit period started during the last 52 weeks.

### Eligible Workers

Employees who are:

- laid off or terminated through no fault of their own
- ready, willing and capable of working each day
- actively looking for work

### Waiting period

1 week.

### Benefit

Up to 45 weeks (depending on the economic region) at 55% of the employee's average insurable weekly earnings up to a maximum of \$573.00

### Where do employees apply?

<https://www.canada.ca/en/services/benefits/ei.html>

### Eligible for Supplementary Unemployment Benefit Plan (SUBP) Top-up?



Yes

- **Supplemental Unemployment Benefits Plan (SUB Plan)**

Employers can establish a Supplementary Unemployment Benefit (SUB) Plan to top up employees' EI benefits during a period of unemployment due to a temporary layoff.

EI Benefits eligible for a SUB Plan

- A SUB Plan is available for EI benefits or EI Sickness benefits, but it is unclear whether it is available for CERB benefits at this time.

SUB Plan Requirements

A SUB Plan (SUBP) must be registered with Service Canada and must meet the requirements set out by Service Canada, otherwise it will be treated as income and any EI benefits received may be reduced. Some SUBPs may also qualify for registration under the Income Tax Act. This publication only discusses the process to register a SUBP with Service Canada.

A SUBP must:

- identify the group or groups of employees covered by the plan
- may cover any period of unemployment by reason of a temporary stoppage of work, training, illness, injury, quarantine or any combination of such reasons;
- require employees to apply for and be in receipt of EI benefits in order to receive payments under the plan;
- require that the combined weekly payments received from the plan and the portion of the weekly benefit rate from that employment do not exceed 95 per cent of the employee's normal weekly earnings from that employment;
- require that payments under the plan be financed by the employer and that the employer keep separate accounts for those payments;
- require that, on termination of the plan, all remaining assets revert to the employer or be used for payments under the plan or for administrative costs of the plan;
- require that the plan be approved prior to its effective date and that written notice of any change to the plan be given within 30 days after the effective date of the change;



- provide that the employees have no vested right to payments under the plan, except to payments during a period of unemployment specified in the plan; and
- provide that payments in respect of guaranteed annual remuneration or in respect of deferred remuneration or severance pay benefits are not reduced or increased by payments received under the plan
- Have a duration of at least one year, but the number of weeks of top-up under the plan can be as few as one week

The registration date of the SUB Plan is the date on which it is submitted to Service Canada's SUB Program. Until a plan is registered and approved, any amounts paid will be treated as earnings and may be deducted from the employee's EI benefits.

- [Work Share](#)

Employees may agree to work reduced hours rather than have the employer lay-off employees due to a reduction in work. Eligible employees will be paid EI benefits for the missed worked time calculated based on the regular EI benefits. The Work Share (WS) program has been expanded in response to COVID-19 and is available to a wider group of employers with reduced administrative requirements to apply.

Work share applies to a reduction in work activity of the employees' regular work schedule between a minimum of 10% (one half day) and a maximum of 60% (three days). The amount can vary week to week.

#### Eligible employers

To be eligible for a WS agreement, a business must:

- be a year-round business in Canada for at least 1 year
- be a private business or a publicly held company

Eligibility was also extended to:

- Government Business Enterprises (GBEs), also referred to as public corporations which officials with Service Canada have advised include entities such Lottery and Gaming Corporations (OLG), Public Universities and Colleges and Public Transit Groups; and



- not-for-profit employers experiencing a shortage of work due to a reduction of business activity and/or a reduction in revenue levels due to COVID-19

### Ineligible employers

Businesses that are experiencing a reduction in business activity due to:

- a labour dispute
- a seasonal shortage of work, or
- the decrease in business activity is due to a recent increase in the size of the workforce

And if you are a:

- shareholder who is responsible for the direction of the company and who holds 40% and more of the voting shares
- employer who operates solely for the purpose of carrying out the administration of a government program/activity that is purely government in nature (such as municipalities, Government Agencies, etc.), or
- self-employed

### Eligible employees

To be eligible for WS, an employer's employees must:

- be year-round, permanent, full-time or part-time employees needed to carry out the day-to-day functions of the business ("core staff")
- be eligible to receive EI benefits, and
- agree to reduce their normal working hours by the same percentage and to share the available work

Eligibility was also extended to:

- employees considered essential to the recovery and viability of the business can now be eligible to participate in WS (such as technical employees engaged in product development, outside sales agents, marketing agents, etc.)

### Ineligible employees

Employees that are not eligible for WS include:

2 Pardee Avenue, Suite 300, Toronto, Ontario, Canada M6K 3H5  
Tel: 416-534-7770 Fax: 416-534-7771 hunterliberatore.ca



- seasonal employees and students hired for the summer or a co-op term
- employees hired on a casual or on-call basis, or through a temporary help agency
- employees responsible for the direction of the company and who hold more than 40% of the voting shares in the business, or
- self-employed

### How to apply

Note: Timeline for employers submitting Work-Sharing documentation

Employers are now requested to submit their applications 10 calendar days prior to the requested start date. The streamlined measures undertaken by Service Canada will aim to reduce the processing time to 10 calendar days.

Prior to COVID-19, employers were requested to send their Work-Sharing application (and supporting documentation) 30 calendar days prior to their requested start date.

To apply for the Work-Sharing program, employers must submit:

- Applications for a Work-Sharing Agreement form (EMP5100)
- Attachment A: Work-Sharing Unit form (EMP5101)

Note: If the employer does not have enough room on one EMP5101 they can start another EMP5101 and use as many as they need

Please send your application to one of the following email addresses, based on the area your business is located or where the maximum of participants are located:

### Ontario

Email: [ESDC.ON.WS-TP.ON.EDSC@servicecanada.gc.ca](mailto:ESDC.ON.WS-TP.ON.EDSC@servicecanada.gc.ca)

### What is a “work-sharing unit”?

- A minimum of 2 employees
- The “work-sharing unit” generally includes all employees in a single job description or all employees who perform similar work. Employees who do different work but whose jobs impact one another (i.e. slowdown in business affects one job resulting in less work for another job or jobs) may form one work-sharing unit provided that all employees can reduce their hours equally.



- There can be more than one work-sharing unit.

Is there a minimum and maximum period of time the Work Share must be in place?

Plan must be for at least 6 weeks and can be upwards of 78 weeks under the current government announcements.

Do all employees who participate have to agree?

- The program is voluntary, and employees must sign an agreement to participate. The members of each Work-Sharing unit must authorize an employee who will represent them in the agreement.
- If the workplace is unionized, the union must agree, and hours must be reduced equally regardless of seniority provisions in a collective agreement

Do benefits have to continue?

All benefits must continue although disability benefits can be pro-rated to reflect the reduced work week.

- [Federal government amends certain leaves in Canada Labour Code \(CLC\) and creates a new time-limited COVID-19 Leave](#)

COVID-19 Leave

On March 25, 2020, the Federal Government passed [Bill C-13](#), the COVID-19 Emergency Response Act. The Bill creates a new Leave Related to COVID-19 (“COVID-19 Leave”) for federal regulated employees who are governed by the *Canada Labour Code*.

COVID-19 Leave is a temporary leave which will apply from March 25, 2020 until September 30, 2020 and will provide job-protected leave to employees for up to 16 weeks or such number of weeks that may be set by regulation, who are “unable or unavailable to work for reasons related to the coronavirus disease 2019 (COVID-19)”

Employees must give written notice in support of the reasons for the leave, the length of the leave or any changes to the length of the leave. Employers are permitted to ask for written declaration from employees in support of the reason for the leave and of any change in the length of the leave.



Like all other protected leaves, employees who exercise their right to COVID-19 Leave are entitled to the following protections:

- Employees are entitled, on written request, to written notification of every employment promotion or training opportunity that arises during their leave;
- Employees cannot be subject to employer reprisal for accessing the leave;
- Employees are entitled to benefit continuation during the leave if the employee continues to pay their portion of the premiums;
- Vacation entitlement may be interrupted or postponed to take the COVID-19 Leave;
- Parental leave may be extended to take COVID-19 Leave; and
- Employees are entitled to reinstatement to their position at the end of the leave, if it still exists, or to a comparable position, if it does not.

#### Medical Leave due to Quarantine

When the temporary COVID-19 Leave is repealed on October 1, 2020, a new provision will come into force amending Medical Leave to include up to 16 weeks of unpaid leave for employees who are absent due to quarantine. If an employee's leave due to quarantine is more than 3 days, the employer may request a medical note.

Like all other protected leaves, employees who exercise their right to Medical Leave due to Quarantine are entitled to the same job protections as set out above.

#### Temporary Suspension of Requirement of Medical Note and Any Other Documentation

From March 25, 2020 until October 1, 2020, employees who exercise their right to Medical Leave, Compassionate Care Leave or Leave related to Critical Illness are not required to provide a medical note or any other documentation to support their request for the leave. This exemption will be repealed on October 1, 2020 and the usual requirement for a medical note and documentation will apply.

- [CLC Leaves Chart](#)

The following chart summarizes the different leaves that may be applicable to COVID-19 related absences from work.



HUNTER-LIBERATORE-LAW

Type of Leave	Required Service	Duration	Medical or other Evidence Employer can Request	Purpose of Leave	Persons Ineligible for Leave
<b>New Declared Emergency &amp; Infectious Disease Emergencies Leave ** retroactive effect to January 25, 2020</b>	None	As long as Declared Emergency or Infectious Disease Emergency is in effect	No medical documentation required	absence due to: a) medical investigation or treatment for COVID-19, b) order under HPPA or from Public Health, c) isolation or quarantine, d) employer direction not to work; or e) provision of care or assistance to a family member for a reason related to Declared Emergency, Infections Disease, or school or daycare closure, or f) travel restrictions that prevent travel back to Ontario	The Lieutenant Governor in Council may exempt a class of employees from this leave or any provision of it. No exemptions have been received yet.
<b>Sick Leave</b>	2 weeks	3 days per year	Evidence reasonable in the circumstances may be requested	absence due to personal illness, injury or medical emergency	Employees with professional obligations* may be exempt if the entitlement would constitute an act of professional misconduct or a dereliction of a professional duty
<b>Family Responsibility</b>	2 weeks	3 days per year	Evidence reasonable in the circumstances may be requested	to provide care to a family member who is ill, injured or has a medical emergency or any other urgent matter	Employees with professional obligations* may be exempt if the entitlement would constitute an act of professional misconduct or a dereliction of a professional duty
<b>Family Caregiver</b>	None	8 weeks per family member per year	A certificate from a qualified health professional stating that the family member has a serious medical condition may be requested	to provide care or support to a family member that has a serious medical condition including chronic or episodic conditions	



HUNTER-LIBERATORE-LAW

Type of Leave	Required Service	Duration	Medical or other Evidence Employer can Request	Purpose of Leave	Persons Ineligible for Leave
<b>Critical Illness (for care of child family member under 18)</b>	6 months	up to 37 weeks**	A certificate from a qualified health professional stating that the child is critically ill and requires the care and support of a family member	to provide care or support to a minor child who is a family member that is critically ill	
<b>Critical Illness (for care of adult family member )</b>	6 months	up to 17 weeks**	A certificate from a qualified health professional stating that the child is critically ill and requires the care and support of a family member	to provide care or support to a family member that is critically ill	
<b>Family Medical</b>	None	28 weeks	A certificate from a qualified health professional stating that the family member has a serious medical condition with a significant risk of death within 26 weeks may be requested	to provide care or support to a family member who has a serious medical condition with a significant risk of death within 26 weeks or less	

*\* Employees with Professional Obligations are defined as: architects, lawyers, professional engineers, accountants, surveyors, veterinarians, naturopaths, teachers, students in training for the aforementioned professions, and registered practitioners of a health profession covered by the Regulated Health Professions Act*

**\*\* leaves may be extended or new leaves granted in certain circumstances**



- [Canada Emergency Wage Subsidy](#)

On March 18, 2020, the Federal Government announced the Temporary Wage Subsidy Program, a new support for small businesses impacted by the COVID-19 pandemic. The original Program allowed employers to recover 10% of employees salary up to a maximum of \$25,000 per employer and a maximum of \$1,375 per employee during the 3 -month period covered under the Program.

On March 27, 2020, the Government announced an increase in the wage subsidy to 75%.

On April 11, 2020, the Government enacted B-14 implementing the new wage subsidy. For details, please see our separate publication.

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