

COVID-19 UPDATE – MARCH 19, 2020

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On the morning of March 18, 2020, we published an information bulletin to provide information, and address some of the most common questions faced by employers regarding the COVID-19 pandemic. Please find this bulletin here: [COVID-19 Update - March 18, 2020](#)

The purpose of this March 19, 2020 bulletin is to provide additional COVID-19 information to employers regarding Employment Insurance benefits, the federal stimulus package of \$82 billion, and new provincial job-protected leaves of absence.

I. EI Benefits for COVID-19

Currently, there are two types of Employment Insurance benefits potentially available to employees affected by COVID-19 and the related economic impact under the *Employment Insurance Act*: EI Sickness Benefits and EI Regular Benefits. For either EI Benefit, Employees must still work the pre-requisite number of insurable hours prior accessing the respective benefit.

Employers may additionally wish to consider federal top-up and work-sharing programs.

EI Sickness Benefits (up to 15 weeks)

Employees may be eligible to claim EI Sickness benefits when they are unable to work because they have either been diagnosed with COVID-19 (or are otherwise unable to work for a medical reason) or unable to work because they have been directed to self-quarantine. Employment Insurance (EI) sickness benefits provide up to 15 weeks of income replacement (55% of earnings up to a maximum of \$573 per week).

In response to the COVID-19 pandemic, the Federal Government has waived the standard one-week EI waiting period as well as the requirement for documentary evidence of sickness (i.e., a medical certificate signed by a qualified medical profession), for individuals directed to self-quarantine. In addition, Service Canada has confirmed that individuals who cannot complete a claim for EI sickness benefits due to quarantine may apply later and have their EI claim backdated to cover the period of delay.

Further information about EI sickness benefits, including about the application process and qualification requirements, can be found on [the Service Canada EI Sickness Benefits website](#).

EI Regular Benefits

EI Regular benefits provide between 14 and 45 weeks' of income replacement (55% of earnings up to a maximum of \$573 per week), depending on unemployment rates in the applicable region and the number of insurable hours an employee has worked in the previous 52 weeks or since his or her last claim. These benefits are available to individuals who lose



their jobs through no fault of their own (for example, due to shortage of work or mass workforce reductions, including due to the COVID-19 pandemic).

As of the date of this bulletin, no changes have been announced to EI Regular benefits. What this means, among other things, is that the one-week waiting period continues to apply. Further information about EI Regular benefits can be found on [the Service Canada EI Regular Benefits website](#).

EI Top-Up

Employers may establish a Supplemental Unemployment Benefit (SUB) plan to supplement EI for employees who are unemployed due to reasons including a temporary stoppage of work, illness, or quarantine.

In essence, a SUB plan is an employer-paid EI top up.

Payments from SUB plans that are registered with Service Canada are not considered as earnings and are not deducted from EI benefits (pursuant to subsection 37(1) of the EI Regulations). **In other words, to shelter the EI payments, the SUB plan must be registered with Service Canada.** Payments made by an unregistered SUB plan will be considered “earnings” and will offset the employee’s EI payments. Please note that to be registered with Service Canada, a SUB plan must meet a number of specific requirements, the specifics of which are found in Service Canada’s [Guide for Employers Offering Supplemental Unemployment Benefits to Their Employees](#).

Work Sharing

Private sector employers may also wish to consider applying for the Federal Work-Sharing Program, which is an adjustment program designed to help employers and employees avoid layoffs when there is a temporary reduction in the normal level of business activity that is beyond the control of the employer. The measure provides income support to employees eligible for EI benefits who work a temporarily reduced work week while their employer recovers.

In response to the COVID-19 pandemic, the maximum duration of the Work-Sharing Program period for affected employers has been extended from 38 weeks to 76 weeks. Please note that the process of applying for the Work-Sharing Program can be a complex one and must be made at least 30 days in advance of the effective date. Employers wishing to utilize this program are therefore encouraged to begin the application process as soon as practicable. Further details can be found in Service Canada’s [Work-Sharing Program Guide](#).

II. Federal Stimulus Package of \$82 Billion

On March 18, 2020, the federal government announced an \$82 billion stimulus package to protect workers, businesses, and the Canadian economy during the COVID-19 public health emergency: (i) \$27 billion in direct support to individuals and businesses (equivalent to more than 1% of GDP); and (ii) deferral of \$55 billion in tax revenue (meaning approximately 3% of GDP will be left in economy). The Prime Minister announced several of the measures in an address to the nation. Finance Minister Bill Morneau then gave a press conference in which

he provided additional details about the federal government's plans. The Department of Finance also published a document titled *Canada's COVID-19 Economic Response Plan: Support for Canadians and Businesses* which is hyperlinked below. Note that these measures were described by the Finance Minister as the "first phase of Canada's COVID-19 economic response plan" and it was made clear that additional measures would be announced as necessary.

As an important preliminary point, we want to caution that much of what was announced is still in development, unless otherwise clearly stated. In an interview with Global News TV at around 8:45 AM PST on March 19, 2020, the Finance Minister indicated that legislation to facilitate many of the measures announced was being actively worked on. He indicated that this legislation could be tabled as early as the weekend of March 21, 2020 or early the following week. In response to a question about when Canadians could expect "cheques in the mail", he did not provide a firm timeline but appeared to indicate that a timeline of around three weeks for the system changes that are required was possible.

Emergency Care Benefit

The federal government is creating a new Emergency Care Benefit that will provide individuals with bi-weekly payments of up to \$900 for up to 15 weeks. This benefit is expected to be made available in April 2020. This "flat-payment Benefit" will be administered through the Canada Revenue Agency.

The Department of Finance stated, in its written publication titled *Canada's COVID-19 Economic Response Plan: Support for Canadians and Businesses* that the Emergency Care Benefit will provide income support to: (i) workers, including the self-employed, who are sick or in quarantine with COVID-19 but do not qualify for EI sickness benefits; (ii) workers, including the self-employed, who are taking care of a family member who is sick with COVID-19, but do not qualify for EI sickness benefits; (iii) parents with children who require care or supervision due to school closures, and are unable to earn employment income, irrespective of whether they qualify for EI or not.

The following details have also been announced:

- (i) applicants will be able to apply at home (CRA MyAccount, My Service Canada Account, or by calling a toll-free number) and receive payment by direct deposit; and
- (ii) eligibility will be determined based on a simple "attestation" that they meet eligibility requirements and will not require medical documentation (attestation will need to be renewed every two weeks).

We will monitor for additional updates on this benefit as we expect that certain details discussed by the Finance Minister but not addressed directly in the Department's written communication will be clarified in the near future.



Emergency Support Benefit

The federal government also announced that any worker who loses their job as a result of COVID-19's impact and does not qualify for EI will be eligible for a newly created Emergency Support Benefit, also to be delivered through the CRA. Details were not released but \$5 billion has been set aside for this particular benefit. The Finance Minister also announced that the intent is to provide 14 weeks support at a comparable level to the EI program. This benefit is also expected to become effective in April, 2020.

Temporary Wage Subsidy for small businesses

The federal government is also making a Temporary Wage Subsidy available to small businesses. To support business that are facing revenue losses and help prevent lay-offs, eligible small businesses will receive a temporary wage subsidy for a period of three months, equivalent to 10% of wages payable to all employees for 3 months, up to a maximum of \$1,375 per employee and up to a maximum of \$25,000 per employer. Businesses are able to benefit immediately from this support by reducing their remittances of income tax withheld on their employees' remuneration.

Although additional details may be shared, the federal government has indicated that employers benefitting from this measure will include corporations eligible for the small business deduction as well as non-profit organizations and charities. The Minister of Finance emphasized that this measure builds on the announcement last week regarding the EI Work Sharing Program, which is described in the previous section.

EDC and BDC Assistance

The federal government announced that \$10 billion in support is available through the Export Development Canada (EDC) and Business Development Bank of Canada (BDC) Business Credit Availability Program, largely for use by small and medium-sized businesses. The near term credit available to farmers and the agri-food sector will also be increased through Farm Credit Canada. Again, we anticipate further details from the federal government in the near future.

The Finance Minister also highlighted the impact this public health emergency was having on certain sectors, including air transportation as well as oil and gas. The Finance Minister stated that EDC and BDC are developing a tailored set of tools for these and other sectors. He announced that the federal government is working with the Alberta Government to help oil and gas workers in Alberta (i.e. significant investment in orphan well remediation). He indicated that details would be forthcoming.

Other Measures

Above, we have provided details of the more significant measures announced by the federal government, from the perspective of employers. A number of other measures were also introduced that demonstrate the federal government's commitment to providing significant and



tangible assistance to workers and businesses to help them get through this period of uncertainty.

For additional information about these other measures, please refer to the following link: [Canada's COVID-19 Economic Response Plan: Support for Canadians and Businesses – Department of Finance Canada](#),

III. Statutory Leaves of Absence for COVID-19

In response to the evolving crisis, various provincial governments have either passed or are in the process of passing legislative amendments to provide job-protected leaves of absence. The leaves have a shared purpose in providing job security to those either directly or indirectly impacted by COVID-19.

British Columbia

The BC government has expressed its intention to immediately create a new statutory leave under the *Employment Standards Act* to protect workers impacted by COVID-19.

The government has not shared any draft legislation or the details of the impending leave, including the eligibility criteria, the duration of the leave, and whether employers will be required to provide pay for some duration of the leave.

The media has reported that an emergency session of the legislature will be called on Monday, March 22, 2020 to enact the statutory leave. We will closely monitor the creation of the new statutory leave, and provide further announcements.

Alberta

The Alberta government has already amended its *Employment Standards Code* to create a COVID-19 Leave retroactive to March 5, 2020.

The statutory leave provides 14 days of unpaid leave to an employee under “quarantine”, which includes any self-isolation and self-quarantine as a result of COVID-19, as may be recommended or directed by the Alberta Chief Medical Officer. Please note that this was previously announced as a paid leave.

Employees do not have to work a minimum number of days nor do they have to provide their employers with medical documentation in order to be eligible for the leave.

Saskatchewan

The Saskatchewan government has also amended the *Saskatchewan Employment Act* to create the new unpaid Public Health Emergency Leave.

Employees can only access the leave if the Saskatchewan Chief Medical Officer orders a public health emergency or orders that self-isolation is required to prevent or reduce the spread of a disease. The Chief Medical Officer has, so far, not made any orders with respect to COVID-19.



If the Saskatchewan Chief Medical Officer makes such an order, employees will be entitled to an unpaid leave for the duration of the order provided they have been directed to self-isolate by an employer, qualified medical practitioner, the government, or the chief medical officer, or if they are required to provide care and support for an affected child.

Employees do not have to work a minimum number of weeks to access the leave nor do they have to provide medical documentation.

Ontario

On March 16, 2020, the Ontario government announced its intention to provide job-protected leave to employees: in isolation or quarantine due to COVID-19, directed by an employer to not work, or who need to provide care to a person arising from COVID-19 pandemic, such as of school or day care closures.

The government has further announced employees will not be required to provide medical documentation to access the leave and that the leave would be retroactive to January 25, 2020.

It is presently unknown whether the leave will simply be unpaid and whether the leave will only be accessible to employees who have worked a minimum number of days or weeks for their employer.

The situation continues to evolve by the day and by the hour. If you have any questions about any of these programs, or any questions at all about how your workplace should be addressing the COVID-19 pandemic, please do not hesitate to [contact us](#).

Please note that this information bulletin is current to the morning of **March 19, 2020**. As this situation is evolving rapidly, we urge you to remain informed to the greatest extent you can.

To understand how the information contained in this bulletin might apply in the context of your particular business or operation, please do not hesitate to contact the individuals listed below.

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