

## COVID-19 BULLETIN – MAY 4, 2020

By Christopher Munroe and Michael Kilgallin

### **B.C. Extends Temporary Layoff Period for COVID-19**

The B.C. Provincial Government [announced today](#) that it has extended the maximum permissible temporary layoff under the *Employment Standards Act* to 16 weeks in any 20 week period (up from 13 weeks) so long as the layoff is at least partly due to COVID-19. The Government stated in its press release that it chose 16 weeks because it aligns with the maximum period of eligibility for the Canada Emergency Response Benefit (CERB).

Consistent with its previous interpretation of the *Employment Standards Act*, the government's position is that the employee must agree to the layoff.

While any extension to the permissible layoff length is likely to be welcome news to many employers, a three-week extension may still not be enough for many employers who continue to be impacted by closure orders or business reductions occasioned by the pandemic. B.C.'s approach still differs from that of other provinces. In Alberta, layoffs related to COVID-19, which occurred on or after March 17, can extend to 120 days. In Manitoba, layoffs occurring after March 1 and to the end of the state of emergency do not count towards the periods of temporary layoff under the applicable employment standards legislation. In Ontario, temporary layoffs can extend to 35 weeks in certain circumstances.

We note that B.C. employers may apply to the Director of Employment Standards for a variance to extend the maximum layoff length. Generally speaking, a variance requires employee agreement and the offer of a corresponding benefit to an employee in exchange for the employee giving up minimum statutory rights. If you have questions about variances, we encourage you to [contact one of our lawyers](#).

Practically, while reaching the 16 week temporary layoff triggers a statutorily deemed termination of employment, there are strategies employers may pursue to reduce the exposure and impact. As these are too nuanced to cover in a Bulletin format, we encourage you to [contact us](#) to discuss.

### **Navigating COVID-19 in the Workplace**

For further information relating to the COVID-19 pandemic and how it may impact your workplace, please look to our previous bulletins, which can be found on [Roper Greyell's COVID-19 resource page](#).

This memorandum is current to the morning of May 4, 2020, but the pandemic and the responses of federal and provincial governments continue to evolve, and this may impact the accuracy of the information in this bulletin. If in doubt about whether anything in this document is still current, please do not hesitate to [contact us](#).



Page 2

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