



COVID-19 UPDATE: JULY 31, 2020

By Gavin Marshall and Andrew Nicholl

Information for Employers Applying for COVID-19 Related Layoff Variances Through New Online Portal

In a helpful move for employers struggling with the impact of COVID-19 on their business, employers and employees can now jointly apply to the Employment Standards Branch (“ESB”) for a variance to extend a temporary layoff beyond what is currently permitted under the BC *Employment Standards Act* (the “Act”) through a newly released [online portal](#) (the “Portal”).

Applications must be received by August 25, 2020, to receive a decision by August 30, 2020.

Background

On June 25, 2020 the BC government extended the maximum length permitted for a temporary layoff related to COVID-19 to 24 weeks, so long as the layoff ends on or before August 30, 2020. A layoff that lasts for more than 24 weeks or past August 30, 2020, whichever is sooner, will become a termination.

Despite the above, employers can seek a variance to extend a temporary layoff. The Portal’s website states: “Employers with reasonable plans to recall employees by a specific date that falls after August 30, 2020 can apply to extend the temporary layoff through a variance”.

What if you cannot determine a firm date of recall?

The Portal’s website states that such employers “should determine a date that most closely aligns with their reasonable business plans to partially or fully resume operations.”

How long will the Director extend a temporary layoff?

While each application will be dealt with on a case-by-case basis, extensions of a temporary layoff period beyond December 31, 2020, will only be granted in exceptional circumstances.

To help improve the chances that your application will be successful, be mindful of the following:

1. **Employee Communication**: A majority of affected employees must approve of the application and agree to continue to be temporarily laid-off from work before you apply. The ESB recommends explaining to employees how they will be affected by the variance and how the process works. A sample email is also provided on the Portal.
2. **Document Employee Support**: When applying, you must include proof that more than 50% of affected employees support your application.



3. **Deadline: Applications must be submitted by August 25, 2020.** The ESB recommends uploading a list of all affected employees as part of the application to speed up processing. .

If the variance is granted, do not forget to post a copy of the variance at the worksite. It is recommended to email a copy to all employees as well.

Please do not hesitate to [contact our firm](#) to assist you in navigating this new tool, which should provide a simpler way for employers to seek relief from current limits on the length of a temporary layoff during this challenging economic period.

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 **July 31, 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](#).

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