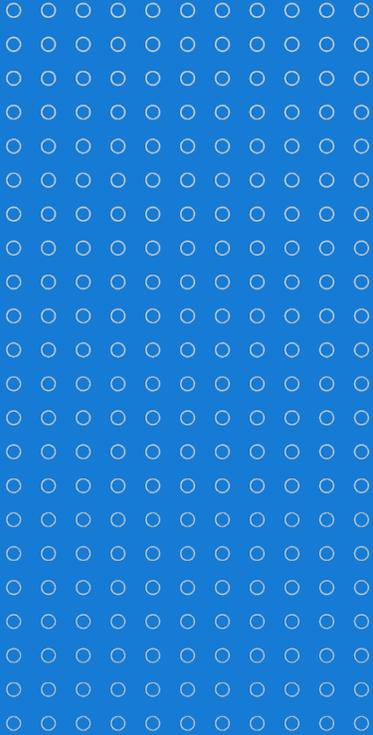


**Coronavirus (COVID-19)  
in the Workplace:**  
**Canadian Legal and  
Regulatory  
Considerations**

March 31, 2020





## Coronavirus and Employee Relations

Every day, employers manage various issues associated with employee (and family) member illnesses, unplanned absences, and workforce productivity challenges. Likewise, managing contagious conditions in the workplace is not a new challenge to employers.

The Coronavirus was first detected in China in December 2019 and now has spread to every corner of the world. On March 11, 2020, the World Health Organization characterized Coronavirus as a pandemic. This is the first pandemic known to be caused by the emergence of a new Coronavirus. While the manifestation of the Coronavirus presents many of the challenges that businesses faced from previous epidemics such as the SARS and H1N1, there are some new, unique concerns facing employers—most especially the uncertainty caused by stay at home orders, governmental requests to self-isolate, and disruptions to supply and/or demand. Employers must prepare to respond effectively and appropriately to an ever-changing situation, and understand the legal and regulatory considerations associated with responding to the Coronavirus pandemic.

HUB International and Bennett Jones LLP have developed the following update which provides an overview of some of the key employer obligations engaged by the Coronavirus and practical advice on coping with these challenges.

## Legal and Regulatory Considerations

### *A. Take Reasonable Care to Protect Health and Safety of Workers*

Canada's patchwork of provincial and federal occupational health and safety legislation impose a general duty on employers to take reasonable and practicable measures to protect the health and safety of their employees.<sup>1</sup> While subject to change, such measures might include the following:

- Identify individuals responsible for planning and managing a pandemic situation. These individuals should have an expertise in human resources, operations, health and safety and communications.
- Where an employee is exhibiting symptoms of Coronavirus, the employee should be directed to public health authorities to assess whether they should undergo a diagnostic test and/or quarantine themselves, as directed. The employee should not return to the workplace until they have been cleared by public health authorities to do so.

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<sup>1</sup> See Appendix A for a list of applicable federal and provincial occupational health and safety legislation.

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- Consider directives from health authorities, including requests to report recent or planned travel, and recommendations to self-isolate (as of March 14, 2020, public health authorities ask that all travelers returning to Canada from any country self-isolate for 14 days upon their return).
  - Remind employees to practice appropriate hygiene (i.e., hand-washing/sanitization practices) and ensure that hand sanitizer and soap are readily available for employees to use. Employers should increase signage in this regard.
  - Where possible, make appropriate arrangements to enable employees to work from home.
  - Advise employees who are otherwise required or expected to attend at work that if they have symptoms of a respiratory illness of any kind (e.g. fever, cough, shortness of breath, etc.) they should stay home and seek medical treatment.
  - Assess the possibility of implementing additional measures to protect employees who are more at risk of suffering from complications related to Coronavirus (e.g. employees aged 65 years of age and older, immunodeficient or affected by underlying medical conditions).
  - Cancel non-essential business travel.
  - Advise employees to carefully monitor the Government of Canada's Travel Advisories, and to consult the same before embarking on any personal travel. Consider advising employees to keep human resources and/or management apprised of all travel plans.
  - Ensure contact information for all employees is up to date.
  - Review/update employer policies on paid sick time, unpaid sick time, leaves of absences and working from home. Employers should consider expanding paid sick leave for Coronavirus related absences.
  - Review/update policies to address how business operations will continue in a pandemic situation. This can translate into a general policy for emergency events outlining how core business functions and decision making will be carried out and maintained during such as event and other necessary measures to keep the business running even if employees cannot come into the workplace.
  - Remain informed of developments and continue to circulate new information to employees from reliable sources, which includes, the World Health Organization, and the Public Health Agency of Canada.

Generally, employees, pursuant to occupational health and safety legislation, may exercise the right to refuse work where they have reasonable grounds to believe that their health and safety are at risk. Employers should be prepared to receive work refusals on the basis that an employee is concerned that the workplace may expose them to the virus.

Occupational health and safety legislation provides a framework for employers to investigate the workplace danger and respond to the same, and if appropriate, adopt measures to eliminate or reduce the workplace danger. Employers are generally prohibited from disciplining or threatening employees from exercising their right to refuse work. In circumstances where employers are considering disciplining an employee for a bad faith or improper work refusal should seek specific legal advice.

## **B. Provide Statutorily Required Unpaid Leaves**

Employment standards legislation affords employees unpaid, job protected leaves covering a variety of health, family care, and other situations, including where an employee is dealing with an illness or must care for someone with an illness. In certain limited circumstances, short periods of leave may be required to be paid. For example, in Québec the first two days taken in a year for a job protected leave related to the care, health or education of the employee's child or the child of the employee's spouse, or because of the state of health of a relative or a person for whom the employee acts as a caregiver must be paid.

In each case, there are qualifying requirements and specified periods of time in which an employee can be away from work. The employer is generally precluded from terminating the employee's employment while they are away on such a job protected leave, unless it is for another just and valid cause, which is unrelated to the reason of the protected leave.<sup>2</sup>

In view of public safety concerns and requests from public health authorities for individuals to self-isolate as a mechanism to slow the impact of Coronavirus, the federal and provincial governments have been looking at the scope of pre-existing job protected leaves to determining whether additional job protections ought to be implemented. For example, on March 16, 2020, the Ontario government announced that it intends to amend the *Employment Standards Act, 2000* to provide job protection for Ontario employees who are forced to stay home from work if:

- The employee is under medical investigation, supervision or treatment for Coronavirus;
- The employee is acting in accordance with an order under the *Health Protection and Promotion Act*;
- The employee is in isolation or quarantine;
- The employee is acting in accordance with public health information or direction;
- The employer directs the employee not to work; or
- The employee needs to provide care to a person for a reason related to Coronavirus such as a school or day-care closure.

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<sup>2</sup> See Appendix A for a list of applicable federal and provincial employment standards legislation.



In the same vein, Ontario employees will not be required to provide a medical note if they take any such leave of absence.<sup>3</sup> Details of this new program will be released in the coming days.

Other provincial governments have similarly made or are preparing changes to employment standards legislation or existing governmental programs to extend worker protections related to this pandemic.

### ***C. Administer Policies and Respond to Crisis in a Non-Discriminatory Manner***

Human rights legislation prohibits discrimination or adverse treatment in employment practices on grounds such as race, ethnicity, ancestry and place of origin.<sup>4</sup>

Most reports have indicated that Coronavirus originated in Wuhan, China, and quickly spread to several other Asian and European countries, before expanding globally. Unfortunately, in the past, where a communicable disease originated in an Asian country (such as SARS), the Canadian-Asian community faced stigmatizing and discrimination. Employees must not be subject to discrimination or harassment based on their connection to a high-risk jurisdiction.

An employer generally has an obligation to take reasonable or necessary steps to protect the health and safety of its employees, which will likely include requiring employees who have recently travelled to high-risk areas to remain in self-isolation at home for a 14 day period, or until they are cleared to return to work. However, employers must be careful not to isolate, segregate or adversely treat employees solely because the employee has ancestral roots or originates from a high-risk area, or another area where the virus has spread. Moreover, employers must be vigilant to ensure that their own employees are not similarly discriminating against their colleagues.

For example, highlighting the associated human rights related issues that the Coronavirus situation could potentially instigate, the Ontario Human Rights Commission issued a statement urging Ontarians to "respect the human rights of Ontario's East Asian community in light of [...] the novel coronavirus in Toronto". The Commission urged Ontarians to "heed the lessons from the SARS crisis" where East Asians in Ontario "were stigmatized, discriminated against and harassed [...]". Human rights authorities in other jurisdictions across Canada have made similar statements.

Human rights legislation also precludes discrimination on the basis of a disability and requires that employers accommodate disabilities to the point of undue hardship. A cold or ordinary flu is generally not considered a disability. While a Coronavirus diagnosis has not officially been declared an "illness" or "disability" within the meaning of human rights legislation, it very likely falls within this category based on how previous epidemics such as SARS and H1N1 were

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<sup>3</sup> If passed, these amendments will apply retroactively to January 25, 2020.

<sup>4</sup> See Appendix A for a list of applicable federal and provincial human rights legislation.

treated. Pursuant to human rights legislation, employers may not discriminate against an employee due to physical disability (including illness).

During the SARS outbreak, the Ontario Human Rights Commission declared that that "disability" covered new illnesses, including SARS. Employers can expect the application of human rights legislation to treat Coronavirus (both actual and perceived) as a disability, and thus, a prohibited ground of discrimination. Furthermore, the human rights regulatory regime also requires employers to make efforts to accommodate a person with a disability. For an employee who has been infected with the Coronavirus and has been away from work, such accommodation might include providing the employee with modified duties upon returning to work (i.e., if the employee remains in a weakened state for some period of time).

#### ***D. Management of medical information and privacy concerns***

Given the unprecedented nature of the Coronavirus pandemic, it may be reasonable and necessary to ask questions about a Coronavirus diagnosis to protect the health and safety of other employees at the workplace. In this situation, employers should consider management of medical information, which includes details of the employee's medical information an employer will collect and how this information will be used, disclosed and kept secure. Employers need to consider what information they may need in order to protect the health and safety of their employees and what information they are entitled to in order to prevent or manage the risk of a rapid spread of Coronavirus. Employers should be aware of the discrimination risks that may arise if they single out certain employees for medical screening based solely on their nationality, race or ethnic origin.

More broadly, employers can ask their employees for a specific diagnosis, but such a question does carry some risks. If any personal information is disclosed, employers should consider the extent that the information (including the identity of the employee) must be disclosed to others. Employers should never share any information beyond what is reasonably required.

Employers should consider the following four questions to determine whether to collect, use and disclose employee personal information.<sup>5</sup>

##### **1. Is the collection, use or disclosure of the personal information for a reasonable purpose?**

In light of the current Coronavirus outbreak, it may be reasonable for an employer to adopt certain screening methods that are designed to assess the risk of any individual attending the workplace carrying Coronavirus, such as asking employees to fill out a questionnaire asking for information on international travel or the experience of Coronavirus symptoms.

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<sup>5</sup> See Appendix A for a list of applicable federal and provincial privacy legislation.



**2. Is the personal information to be collected, used or disclosed limited to that necessary to meet the intended purpose?**

It may be reasonable for an employer to adopt certain screening methods that are designed to assess the risk of any individual attending the workplace carrying the Coronavirus.

**3. Is the collection, use or disclosure of the personal information authorized by law without the need to obtain consent from or provide notice to the individuals in question?**

Canadian private sector privacy legislation generally permits an organization to collect, use and disclose personal information about an individual without consent in certain situations. In Alberta, for example, an organization is not required to obtain consent where the use or disclosure of information is necessary to respond to an emergency that threatens the life, health or security of an individual or the public.

But, care needs to be exercised as these exemptions are not uniform within each statute. For example, the aforementioned "life, health or security" exemption in Alberta applies to the use and disclosure of personal information—it does not apply to the collection thereof. It is also important to note that such exemptions are not uniform among each of these "substantially similar" privacy laws in Canada. For example, the federal privacy legislation differs from Alberta in that the "life, health or security" exemption does not expressly include the public.

As a result, it will be important for each organization to:

- o identify which private sector privacy law applies in the circumstances; and
- o assess the applicability of any exemption therein with respect to the collection, use and (potential) disclosure of any personal information collected in connection with its Coronavirus screening activities.

To the extent that an organization cannot rely on the exemption to collect, use or disclose an individual's personal information, it will need to provide notice and, if required, obtain consent to do so.

**4. Where collection, use or disclosure without consent from or notice to the employees in question is not authorized by law, has the organization obtained consent from or provided notice to the employees in question?**

A jointly issued Guidance from the Office of the Privacy Commissioner of Canada and the Offices of the Information and Privacy Commissioner of Alberta and British Columbia identified several principles underlying meaningful consent. These include the need to provide an individual with information about what personal information is being collected; the purpose for which personal information is collected, used or disclosed; and the potential risk of harm and other consequences from the collection, use or disclosure.



In this publication, the commissioners stressed that it is important for organizations to consider the appropriate form of consent to use (express, deemed or implied) for any collection, use or disclosure of personal information for which consent is required. When making this determination, organizations need to take into account the sensitivity of the information and the reasonable expectations of the employee. Both of these will depend upon context.

Given the potential limitation in the exemption discussed above, appropriate notices should be present at the point of any Coronavirus screening to ensure that notice is given, and where consent is required, consent is obtained from each individual by their participation in such screening.

## Practical Considerations

Canadian employers face issues related to allowing employees to remain at home either because they are required to self-isolate or are being quarantined, or because they have contracted Coronavirus. Self-isolation and quarantining, where appropriate, are critical to fighting the pandemic.

Crucially, employers do not want employees returning to the workforce, or hiding their symptoms/exposure, simply because the employee cannot afford to be away from the workforce, unpaid. However, the need or opportunity for quarantine is ripe for abuse by employees looking for a 14-day break (paid or unpaid) from the workplace. Employers will need to make real-time decisions, while balancing their obligations to ensure a safe workplace, employee privacy rights and their business needs. Below we provide some practical solutions to address these challenges.

An employer may also consider, where it has the resources, a crisis management hotline to coordinate employee questions, direct them to public resources and receive information from employees regarding symptoms, travel and exposure, with appropriate privacy safeguards.

### ***What if an employee contracts Coronavirus?***

If an employee has contracted Coronavirus, that individual:

- should remain at home, away from the workplace;
- may be eligible for paid sick leave under the employee's employment contract or the employer's policies, or a collective agreement;
- may be eligible for short-term disability insurance benefits under group benefits programs;

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- may be eligible for employment insurance benefits as the *Employment Insurance Act* extends benefits to employees facing a reduction in "normal weekly earnings" of at least 40 percent due to illness, injury or quarantine. Further, on March 11, 2020, the Federal Government announced that it would waive the one-week waiting period for people who are in quarantine or have been directed to self-isolate due to Coronavirus;
  - may be eligible for financial aid provided by a special governmental program implemented to support workers and families in the context of the Coronavirus pandemic.

Employers might also consider extending paid sick leaves (even where the employee is otherwise not eligible under their contract), on a temporary basis, to help address the outbreak.

### ***What if an employee has not contracted Coronavirus, but needs to self-isolate or be quarantined?***

The situation is more complicated in the case of self-isolation, quarantine, or suspected exposure. This is especially the case where the employee's duties do not permit them to work remotely.

There will of course be instances where employees clearly should self-isolate. Employers should follow the guidance of public health officials regarding when persons should self-isolate themselves and for how long they should do so. As the situation evolves, instances where individuals should self-isolate themselves will also evolve. Employers should stay on top of these updates and *require* that their employees report when they begin to experience symptoms of the Coronavirus, or come into contact with an individual diagnosed with Coronavirus.

As a first step, employers need to regularly circulate inquiries, requiring employees to disclose if there is a circumstance where self-isolation is appropriate, namely, if they:

- Have recently traveled internationally.
- Have been informed by public health officials that they are suspected to have, or may in fact have, contracted Coronavirus.
- Have been in close proximity to someone who has been informed by a public health official that they are suspected to have, contracted Coronavirus.
- Are exhibiting symptoms of fever, cough and trouble breathing.
- Are exhibiting respiratory symptoms after returning from abroad.

Employers should exercise caution and defer to the guidance from public health officials. However, in cases where an employee has a reasonable basis to quarantine themselves but has not exhibited any symptoms, employers should consider not requiring medical documentation.

Where possible, employees should be permitted to work from home, and receive their regular rate of pay and benefits. In terms of pay for individuals who self-isolate or are quarantined and are not able to perform their duties remotely, employers should:

- o Inquire with their group benefits providers whether or not "quarantined" employees are eligible for short-term disability benefits;
- o Consider extending their paid sick leaves to cover employees who are required to quarantine themselves; and
- o Advise employees of potential employment insurance benefits under the *Employment Insurance Act*, or of potential financial aid provided by a special governmental program implemented to support workers and families in the context of the Coronavirus pandemic.

There are potential risks, including constructive dismissal associated with not paying employees or discontinuing benefits while employees are under quarantine. We would encourage employers to obtain legal advice to discuss the appropriate strategy for their business.

## **Social Distancing**

Social distancing is a measure that employers may take to reduce the person-to-person contact or transmission of a viral condition, which may include measures such as:

- o Alternative working arrangements that expand the physical proximity of employees to one another
- o Alternative meeting arrangements that limits close or collective, in-person meetings using remote meeting tools such as GoToMeeting, Zoom, Skype, etc.
- o Limit employees/customer face-to-face contact using conference calls and remote meeting tools such as GoToMeeting, Zoom, Skype etc.
- o Install sneeze shields
- o Develop a cross-training program to ensure a continuity of operations
- o Develop communication plan
- o Invest in hand sanitizer and disinfectant spray and wipes for the workplace
- o Develop initiatives that encourage handwashing and regular disinfecting efforts

The general premise of social distancing is – if you don't need to meet in person or have face-to-face contact – don't. If contact in person cannot be avoided, stay at a distance from the other person.

## Federal Government's Response to COVID-19

In dealing with the COVID-19 pandemic, the Canadian government has created a COVID-19 Economic Response Plan, which features a series of federally funded relief programs. Relief programs introduced as of April 20, 2020 include the Canada Emergency Wage Subsidy (CEWS), the Canada Emergency Response Benefit (CERB), a 10% Wage Subsidy, an extended Work-Sharing program, and the establishment of a Business Credit Availability Program (BCAP). These measures have been implemented to support businesses and individuals to deal with the economic fallout as a result of the COVID-19 pandemic. This section provides a brief overview of the programs as they existed on April 20, 2020.

A complete list of federal relief programs can be found here:

<https://www.canada.ca/en/department-finance/economic-response-plan.html>

### CEWS

On Saturday April 11, 2020, the *COVID-19 Emergency Response Act, No. 2* received Royal Assent, thereby amending the *Income Tax Act (Canada)* to give effect to the Canada Emergency Wage Subsidy (CEWS) framework. This is the largest government relief measure enacted in Canada's history, and is meant to provide coverage for employee wages so that companies can continue to keep their workers on payroll, instead of engaging in layoffs or terminations.

The CEWS is available to a broad range of 'eligible entities', including individuals, taxable corporations (including public and private corporations), certain tax-exempt organizations, and partnerships between eligible entities. It provides these employers with a wage subsidy of up to 75% of "eligible remuneration" paid to an "eligible employee" per week for a 12-week period between March 15 and June 6, 2020, up to a maximum of \$847 per week. The CEWS is deemed to be a tax overpayment by the eligible entity and, as such, is expected to operate to reduce future tax payable by the eligible entity or to generate a refund.

Qualifying for the CEWS: In order to qualify for the CEWS, eligible entities must be able to evidence a reduction in "qualifying revenue" during the qualifying periods shown below.

Period	Qualifying Period	Required Reduction in Qualifying Revenue	Reference Period for Reduction in Revenue
1	March 15 – April 11	15%	March 2019 or, by election, the average of January and February 2020
2	April 12- May 9	30%	April 2019 or, if elected above, the average of January and February 2020.
3	May 9 – June 6	30%	May 2019 or, if elected above, the average of January and February 2020.

An eligible entity that qualifies in one qualifying period will be deemed to qualify for next subsequent qualifying period. This measure was adopted to provide certainty that, if an eligible entity qualifies for the March 15 to April 11 period, it will also be deemed to qualify for the April 12 to May 9 period. The language of the deeming rule suggests that re-qualification would nevertheless be necessary for the May 10 to June 6 period.

**Revenue:** For the purposes of calculating the reduction in qualifying revenue, revenue is defined as the revenue (cash, receivables, or other consideration) from the eligible entity's ordinary business activities carried on in Canada, provided such amounts are derived from arm's-length persons or partnerships. Extraordinary items are excluded.

**Eligible Employees:** Eligible employees are all individuals employed in Canada by the eligible entity in the qualifying period, other than individuals who are not remunerated for 14 or more consecutive days in such period.

**Refund for Certain payroll contributions:** Employer-paid contributions to Employment Insurance (EI), the Canada Pension Plan, the Quebec Pension Plan, and the Quebec Parental Insurance Plan in respect of an employee will be added to the amount of the CEWS payable to an eligible entity for the period of time that the employee is on paid leave (i.e., not performing any work). Eligible entities are not eligible to be paid any amounts in respect of employer-paid contributions for employees who are actually working during the period that the employer is eligible to claim the CEWS. Employers are required to continue collecting and remitting employer and employee contributions to EI, the Canada Pension Plan, the Quebec Pension Plan, and the Quebec Parental Insurance Plan as usual.

**Anti-avoidance measures and penalties:** Employers that engage in artificial transactions to reduce revenue for the purpose of claiming the CEWS will be subject to a penalty equal to 25% of the value of the subsidy claimed, in addition to the requirement to repay in full the subsidy that was improperly claimed.

**Application process:** Eligible entities will be required to file an application before October 2020, and will need to attest that the revenue reduction thresholds are established. To receive the CEWS, the entity must, as of March 15, 2020, have been registered to make payroll remittances. Eligible employers will be able to apply for the CEWS through the Canada Revenue Agency's *My Business Account* portal.

Further details of the CEWS is available at - <https://www.canada.ca/en/department-finance/economic-response-plan/wage-subsidy.html>

## CERB

The CERB provides a benefit of \$2,000 payable to eligible individuals for each qualifying 4 week period (i.e., \$500 a week). The CERB will be payable once per four-week period and will be available for up to 16 weeks, between March 15, 2020, and October 3, 2020. CERB payments are taxed as employment income.

The CERB is available to both EI eligible and non-eligible workers who:

- o live in Canada and are at least 15 years old;
- o have a valid Social Insurance number;
- o stopped working because of COVID-19 or are eligible for EI regular or sickness benefits;
- o have not voluntarily quit their job;
- o had income of at least \$5,000 in 2019 or in the 12 months prior to the date of their application; and
- o have an income of \$1000 or less (before taxes) during the relevant 4 week qualifying period.

Individuals cannot access both the CERB and the CEWS. Applications for the CERB should be sent to either Service Canada or the Canada Revenue Agency, and can be accessed through the [Portal](#). All applications must be submitted by December 2, 2020.

Further details on the CERB are available at - <https://www.canada.ca/en/services/benefits/ei/cerb-application.html>

## 10% Wage Subsidy

The Temporary 10% Wage Subsidy is a three-month measure that will allow eligible employers to reduce the amount of payroll deduction required to be remitted to the Canada Revenue Agency. Eligible employers include individuals (excluding trusts), partnership, non-profit organization, registered charity, or Canadian-controlled private corporation (including a

cooperative corporation) eligible for the small business deduction. Eligible employers must have an existing business number and payroll program account with the Canada Revenue Agency on March 18, 2020 and pay salary, wages, bonuses, or other remuneration to an eligible employee.

The subsidy is equal to 10% of the income an employee would have been paid between March 18, 2020 to June 19, 2020, up to \$1,375 for each eligible employee, and a maximum of \$25,000 total per employer.

An application is not required for this subsidy, as it will be calculated when an employer remits their income tax, Canada Pension Plan contributions and EI premiums to the Canada Revenue Agency. Any subsidy amount provided to an employer under this program will reduce the amounts available under the CEWS.

FAQs on the Temporary 10% Wage Subsidy can be found at - <https://www.canada.ca/en/revenue-agency/campaigns/covid-19-update/frequently-asked-questions-wage-subsidy-small-businesses.html>

**Work-Sharing program:** Work-Sharing is a program that helps employers and employees avoid layoffs when there is a temporary decrease in business activity beyond the control of the employer. The program provides EI benefits to units of eligible employees who agree to reduce their normal working hours and share the available work while their employer recovers. It is a tripartite agreement between the employer, the employees and Service Canada. Though the Work-Sharing program has existed well before the COVID-19 crisis, the federal government loosened eligibility criteria and restrictions to make it more readily available.

**Employer Minimum Requirements:** The employer must have been operating in Canada for at least one year, have a form of business that operates year-round, be a private business or a publicly held company, and have at least two (2) employees in the WS unit. The business must be experiencing a downturn in business activity, directly or indirectly relating to COVID-19. The employer agrees to maintain all existing employee benefits (e.g., health/dental insurance, pension benefits, vacation, group disability, etc.) for the duration of the WS agreement, but benefits based on earnings or hours of work may be reduced.

**Employee Minimum Requirements:** Eligible employees are "core staff" (i.e., year round permanent full-time or part-time employees who are required to carry out the everyday functions of normal business activity). They must be eligible to receive EI benefits; and voluntarily agree to a reduction of their normal working hours between 10 to 60%.

Details on the Application process can be found at - <https://www.canada.ca/en/employment-social-development/services/work-sharing/apply.html>



## Business Credit Availability Program

BCAP is introduced to help Canadian businesses obtain financing during the current period of significant uncertainty. Through this program, Export Development Canada (EDC) and the Business Development Bank of Canada (BDC) will provide \$65 billion in direct lending and other types of financial support.

BCAP includes the following programs:

**The Canada Emergency Business Account (CEBA):** CEBA provides much needed credit for small businesses to pay for immediate operating costs such as payroll, rent, utilities, insurance, property tax, or debt service.

It is available to Canadian employers with \$20,000 to \$1.5 million in total payroll in 2019, and operating as of March 1, 2020. This includes smaller (i.e., micro) businesses and other eligible employers such as not-for-profits. Under CEBA, financial institutions will be able to provide interest-free credit facilities of up to \$40,000 to eligible businesses. This program is now available at various financial institutions and credit unions.

**Loan Guarantee for Small and Medium Enterprises:** The EDC Loan Guarantee and the BDC Co-Lending program provides credit, cash flow term loans and term loans for operational and liquidity needs of businesses, which could include interest payments on existing debt.

The EDC Loan Guarantee program allows financial institutions to issue operating credit and cash flow term loans of up to \$6.25 million to existing clients, with 80 per cent guaranteed by EDC. This money is to be used for operational expenses, not for dividend payouts, shareholder loans, bonuses, stock buyback, option issuance, increases to executive compensation or repayment/refinancing of other debt. This program is now available at various financial institutions and credit unions.

The BDC Co-Lending program is designed in three segments to target support to different business sizes, (1) Loans of up to \$312,500 to businesses with revenues of less than \$1 million, (2) Up to \$3.125 million for businesses with revenues between \$1 million and \$50 million, and (3) Up to \$6.25 million for businesses with revenues in excess of \$50 million. Loans would be interest-only for the first 12 months, with a 10 year repayment period. Applications details will be made available in the days to come by financial institutions.

Further information is available at - <https://www.canada.ca/en/department-finance/programs/financial-sector-policy/business-credit-availability-program.html>

For employers looking to structure their business affairs in ways that will best allow them to utilize the assistance available through the above mentioned federal programs, there is no one-size-fits-all approach. Employers are encouraged to reach to Bennett Jones or HUB for a tailor made approach to address your business needs in these unprecedented times.

# Appendix A

This Appendix provides a broad overview of the most relevant federal and provincial employment, labour, occupational health and safety, human rights and privacy legislation. It also includes links to several government websites where additional travel, health and employment related information may be found. This is not an exhaustive list of all legislation (and regulations) relating to employment, occupational health and safety, human rights and privacy issues. This list is current to the date of publication.

## A. Federal Government

### Legislation

- *Canadian Human Rights Act*, R.S.C., 1985, c. H-6  
<https://laws-lois.justice.gc.ca/eng/acts/h-6/page-1.html>
- *Canada Labour Code*, R.S.C., 1985, c. L-2  
<https://laws-lois.justice.gc.ca/eng/acts/L-2/page-1.html>
- *Privacy Act*, R.S.C., 1985, c. P-21  
<https://laws-lois.justice.gc.ca/ENG/ACTS/P-21/index.html>
- *Employment Insurance Act*, S.C. 1996, c. 23  
<https://laws-lois.justice.gc.ca/eng/acts/e-5.6/>
- *The Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5  
<https://laws-lois.justice.gc.ca/eng/acts/P-8.6/index.html>

### Information on Coronavirus from the government

<https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection/canadas-reponse.html>

### Employment and Social Development

<https://www.canada.ca/en/employment-social-development/corporate/notices/coronavirus.html>

### Travel health notices

<https://travel.gc.ca/travelling/health-safety/travel-health-notices>

### Travel advice

<https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection/latest-travel-health-advice.html>

### Updates from the Prime Minister's Office

<https://pm.gc.ca/en>

## B. Provincial Government

### Alberta

#### Legislation

- *Occupational Health and Safety Act*, SA 2017 cO-2.1  
<https://www.alberta.ca/ohs-act-regulation-code.aspx#toc-0>
- *Alberta Human Rights Act*, Revised Statutes of Alberta 2000, Chapter A-25.5  
<http://www.qp.alberta.ca/documents/Acts/A25P5.pdf>
- *Employment Standards Code*, Revised Statutes of Alberta 2000, Chapter E-9  
<http://www.qp.alberta.ca/documents/Acts/E09.pdf>
- *Personal Information Protection Act*, P-6.5 2003  
[http://www.qp.alberta.ca/570.cfm?frm\\_isbn=9780779814381&search\\_by=link](http://www.qp.alberta.ca/570.cfm?frm_isbn=9780779814381&search_by=link)

#### Information on the Coronavirus

<https://www.alberta.ca/coronavirus-info-for-albertans.aspx>

#### Coronavirus in the Workplace

- Guidelines for coronavirus: <https://ohs-pubstore.labour.alberta.ca/covid-19>
- Updates on Coronavirus: <https://www.alberta.ca/release.cfm?xID=698095C2869CC-F664-6E12-2ADF3D4DC0E40808#toc->

### British Columbia

#### Legislation

- *Human Rights Code*, [RSBC 1996] Chapter 210  
[http://www.bclaws.ca/Recon/document/ID/freeside/00\\_96210\\_01](http://www.bclaws.ca/Recon/document/ID/freeside/00_96210_01)
- *Employment Standards Act*, [RSBC 1996] Chapter 113  
[http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/00\\_96113\\_01](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96113_01)
- *Personal Information Protection Act*, [SBC 2003] Chapter 63  
[http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/00\\_03063\\_01](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_03063_01)

## Coronavirus in the Workplace

BC Centre for Disease Control: <http://www.bccdc.ca/health-info/diseases-conditions/covid-19/employers-businesses>

Worksafe BC: <https://www.worksafebc.com/en/about-us/news-events/announcements/2020/March/covid-19-and-the-workplace>

## Manitoba

### Legislation:

- *The Employment Standards Code*, C.C.S.M. c. E110  
<https://web2.gov.mb.ca/laws/statutes/ccsm/e110e.php>
- *The Human Rights Code*, C.C.S.M. c. H175  
<https://web2.gov.mb.ca/laws/statutes/ccsm/h175e.php>
- *The Workplace Safety and Health Act*, C.C.S.M. c. W210  
<https://web2.gov.mb.ca/laws/statutes/ccsm/w210e.php>

### Information on Coronavirus

<https://www.gov.mb.ca/covid19/about/index.html>

### Coronavirus in the Workplace

<https://www.gov.mb.ca/covid19/workplaces.html>

### Travel advice

<https://www.gov.mb.ca/covid19/infomanitobans/index.html>

## New Brunswick

### Legislation

- *Occupational Health and Safety Act*, (S.N.B. 1983, c. O-0.2)  
<http://laws.gnb.ca/en/ShowTdm/cs/O-0.2/>
- *Human Rights Act*, 2011, c.171  
<http://laws.gnb.ca/en/showdoc/cs/2011-c.171>
- *Employment Standards Act* (S.N.B. 1982, c. E-7.2)  
<http://laws.gnb.ca/en/ShowTdm/cs/E-7.2/>

- *Personal Health Information Privacy and Access Act*, (S.N.B. 2009, c. P-7.05)  
<http://laws.gnb.ca/en/showfulldoc/cs/P-7.05/20121030>

### Information on Coronavirus

[https://www2.gnb.ca/content/gnb/en/departments/ocmoh/cdc/content/respiratory\\_diseases/coronavirus/AboutCoronavirus.html](https://www2.gnb.ca/content/gnb/en/departments/ocmoh/cdc/content/respiratory_diseases/coronavirus/AboutCoronavirus.html)

### Media updates

<https://www2.gnb.ca/content/gnb/en/news.html>

## Newfoundland & Labrador

### Legislation

- *Human Rights Act*, SNL2010 Chapter H-13.1  
<https://assembly.nl.ca/Legislation/sr/statutes/h13-1.htm>
- *Labour Standards Act*, RSNL 1990, Chapter L-2  
<https://assembly.nl.ca/Legislation/sr/statutes/l02.htm>
- *Occupational Health and Safety Act*, RSNL1990 Chapter O-3  
<https://www.assembly.nl.ca/legislation/sr/statutes/o03.htm>
- *Personal Health Information Act*, SNL2008 Chapter P-7.01  
<https://assembly.nl.ca/Legislation/sr/statutes/p07-01.htm>

### Information on Coronavirus

<https://www.gov.nl.ca/covid-19/>

## Nova Scotia

### Legislation

- *Occupational Health and Safety Act*, Chapter 7 of the Acts of 1996  
<https://novascotia.ca/lae/healthandsafety/legislation.asp>
- *Labour Standards Code*, Chapter 246 of the Revised Statutes, 1989  
<https://nslegislature.ca/sites/default/files/legc/statutes/labour%20standards%20code.pdf>
- *Human Rights Act*, Chapter 214 of the Revised Statutes, 1989  
<https://nslegislature.ca/sites/default/files/legc/statutes/human%20rights.pdf>

- *Personal Health Information Act*, Chapter 41 of the Acts of 2010  
<https://novascotia.ca/dhw/phia/PHIA-legislation.asp>;  
<https://www.canlii.org/en/ns/laws/stat/sns-2010-c-41/latest/sns-2010-c-41.html>

### **Information on Coronavirus**

<https://novascotia.ca/coronavirus/>

### **Travel advice**

<https://novascotia.ca/coronavirus/#travel>

## **Ontario**

### **Legislation**

- *Occupational Health and Safety Act*, R.S.O. 1990, Chapter O.1  
<https://www.ontario.ca/laws/statute/90o01>
- *Human Rights Code*, R.S.O. 1990, c. H.19  
<https://www.ontario.ca/laws/statute/90h19>
- *Employment Standards Act*, 2000, S.O. 2000, c. 41 -  
<https://www.ontario.ca/laws/statute/00e41>
- *Workplace Safety and Insurance Act*, 1997, S.O. 1997, c. 16, Sched. A  
<https://www.ontario.ca/laws/statute/97w16>
- *Labour Relations Act*, 1995, S.O. 1995, c. 1, Sched. A  
<https://www.ontario.ca/laws/statute/95l01>
- *Personal Health Information Protection Act*, 2004, S.O. 2004, c. 3, Sched. A  
<https://www.ontario.ca/laws/statute/04p03>

### **Information on Coronavirus**

<https://www.ontario.ca/page/2019-novel-coronavirus>

<https://www.publichealthontario.ca/>

### **Coronavirus in the Workplace**

<https://news.ontario.ca/newsroom/en>

## Quebec

### Legislation

- *Act Respecting Labour Standards*, chapter N-1.1  
<http://legisquebec.gouv.qc.ca/en/showdoc/cs/N-1.1>
- *Quebec Civil Code*, chapter CCQ-1991  
<http://legisquebec.gouv.qc.ca/en/showdoc/cs/CCQ-1991>
- *Charter of Human Rights and Freedoms*, chapter C-12  
<http://legisquebec.gouv.qc.ca/en/showdoc/cs/c-12>
- *Act Respecting Occupational Health and Safety*, chapter S-2.1  
<http://legisquebec.gouv.qc.ca/en/showdoc/cs/S-2.1>
- *Act Respecting The Protection of Personal Information in the Private Sector*, chapter P-39.1  
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/P-39.1>
- *Act respecting Access to documents held by public bodies and the Protection of personal information*, chapter A-2.1  
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/A-2.1>

### Information on Coronavirus

<https://www.quebec.ca/en/health/health-issues/a-z/2019-coronavirus/>

### Coronavirus in the Workplace

<https://www.quebec.ca/en/family-and-support-for-individuals/financial-assistance/temporary-aid-for-workers-program/>

## Saskatchewan

### Legislation

- *The Saskatchewan Human Rights Code*, 2018, Chapter S-24.2 of the Statutes of Saskatchewan, 2018  
<https://saskatchewanhumanrights.ca/learn/the-human-rights-code>
- *The Saskatchewan Employment Act*, SS 2013, c S-15.1  
<https://pubsaskdev.blob.core.windows.net/pubsask-prod/78194/S15-1.pdf>

## Information on Coronavirus

<https://www.saskatchewan.ca/government/health-care-administration-and-provider-resources/treatment-procedures-and-guidelines/emerging-public-health-issues/2019-novel-coronavirus/about-covid-19>

## Coronavirus in the Workplace

<https://www.saskatchewan.ca/government/news-and-media/2020/march/17/labour-changes-for-employees-during-covid-19>

## Media updates

<https://www.saskatchewan.ca/government/health-care-administration-and-provider-resources/treatment-procedures-and-guidelines/emerging-public-health-issues/2019-novel-coronavirus>

## Prince Edward Island

### Legislation

- *Employment Standards Act*, RSPEI 1988, c E-6.2  
[https://www.princeedwardisland.ca/sites/default/files/legislation/e-06-2-employment\\_standards\\_act.pdf](https://www.princeedwardisland.ca/sites/default/files/legislation/e-06-2-employment_standards_act.pdf)
- *Occupational Health and Safety Act*, RSPEI 1988, c O-1.01  
<https://www.princeedwardisland.ca/sites/default/files/legislation/O-1-01-Occupational%20Health%20And%20Safety%20Act.pdf>
- *Human Rights Act*, RSPEI 1988, c H-12  
<https://www.princeedwardisland.ca/sites/default/files/legislation/H-12%20-Human%20Rights%20Act.pdf>

## Information on Coronavirus

<https://www.princeedwardisland.ca/en/information/health-and-wellness/coronavirus-covid-19-infection-faqs>

## Media updates

<https://www.princeedwardisland.ca/en/news>



## APPENDIX B

### Leave of Absence Entitlements

#### Federally-Regulated Employers

Per the *Canadian Labour Code*, the following are generally considered federally-regulated employers:

- interprovincial and international services such as:
  - railways
  - road transport
  - telephone, telegraph, and cable systems
  - pipelines
  - canals
  - ferries, tunnels, and bridges
  - shipping and shipping services
- radio and television broadcasting, including cablevision
- air transport, aircraft operations, and aerodromes
- banks
- undertakings for the protection and preservation of fisheries as a natural resource
- some First Nations communities and activities
- undertakings declared by Parliament to be for the general advantage of Canada, such as:
  - most grain elevators
  - flour and seed mills, feed warehouses, and grain-seed cleaning plants
  - uranium mining and processing, and atomic energy

If an employer falls into one of the above categories, then an employee may be eligible for certain leave entitlements.

#### Non-Federally-Regulated Employers

Non-federally-regulated employers have access to similar unpaid medical, personal and critical illness leaves. However, the rules associated with these leaves are governed by the province or territory. The table on the next page provides a high-level summary of each province/territory's comparable version of medical, personal and critical illness leave.

This chart contains a summary of information on various leaves that existed prior to any amendments related to COVID-19.

Province/ Territory	British Columbia	Alberta	Saskatchewan	Newfoundland	Prince Edward	Nova Scotia	New Brunswick	Ontario	Manitoba	Quebec
Medical Leave (ML)	N/A	Known as “Long Term Illness and Injury Leave”	N/A	N/A	N/A	N/A	Known as “Sick Leave”	Known as “Sick Leave”	Known as “Long Term Serious Illness/Injury Leave”	Known as “Sickness”
ML Service/Hour Requirements	N/A	90 days	N/A	N/A	N/A	N/A	90 days	2 weeks	90 days	none
ML Max Benefit	N/A	16 weeks	N/A	N/A	N/A	N/A	5 days per year	3 days per year	17 weeks	26 weeks
Personal Leave (PL)	Known as “Family Responsibility Leave”	Known as “Personal and Family Responsibility”	N/A	Known as “Sick/Family Responsibility Leave”	Known as “Sick/Family Responsibility Leave”	Known as “Sick Leave”	Known as “Family Responsibility Leave”	Known as “Family Responsibility Leave (FRL)” and “Family Care Giver Leave (FCG)”	Known as “Family Leave”	Known as “Family Leave”
PL Service/Hour Requirements	none	90 days	N/A	30 days	Sick: 3 months Family: 6 months	none	90 days	2 weeks	30 days	3 months
PL Max Benefit	5 days	5 days per calendar year	N/A	7 days	Sick: 3 days Family: 3 days	3 days	3 days	FRL: 3 days FCG: 8 weeks	3 days	10 days
Critical Illness Leave (CI)	Known as “Critical Illness or Injury Leave”	Known as “Critical Illness Leave”	Known as “Critically Ill Child/Adult”	Known as “Critical Illness Leave”	N/A	Known as “Critically Ill Child/Adult Leave”	Known as “Critically Ill Child/Adult Leave”	Known as “Critically Ill Child/Adult Leave”	Known as “Critical Illness”	Known as “Caregiver Extended Illness”
CI Service/Hour Requirements	none	90 days	13 weeks	30 days	N/A	6 months	90 days	6 months	30 days for child/90 days for family member	none
CI Max Benefit	36 weeks for child; 16 weeks for adult family member	36 weeks for child; 16 weeks for adult family member	37 weeks for child; 17 weeks for adult family member	37 weeks for child; 17 weeks for adult family member	N/A	37 weeks for child; 16 weeks for adult family member	37 weeks for child; 17 weeks for adult family member	37 weeks for child; 17 weeks for adult family member	37 weeks for child; 17 weeks for adult family member	36 weeks for child; 16 weeks for adult family member

Separately, Nova Scotia has an “Emergency Leave,” a government mandated leave when a public emergency is issued.

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Get the latest information, guidance and resources on Coronavirus (COVID-19) to help you protect what matters most at [hubinternational.com/coronavirus](https://hubinternational.com/coronavirus). For additional support, please reach out to your local HUB office.

