

COVID-19 HR RELATED FAQ's

March 20, 2020

Q: What if my employee refuses to come in to work?

A: Under Alberta's Occupational Health & Safety legislation, an employee has the right to refuse unsafe work. Employer's have a duty to keep their staff safe during an outbreak therefore, the employer would need to investigate and assess whether the work is unsafe and if it poses risk or harm to the employee. Appropriate hazards would include if someone in the workplace has COVID-19, if they're reporting flu-like symptoms or if they've travelled to an at-risk country recently.

Once a hazard is identified, an employee is entitled to receive pay until the employer investigates and addresses the concern. If after the employer's assessment, the risk is minimal or nonexistent, the employee would be required to return to work. However, if the employee continues to refuse to work, then the employee would be deemed to be unavailable for work and may not be paid. Given employers have an obligation to keep their staff safe and informed, employers should provide information about COVID-19, from proper handwashing to understanding the symptoms, and supplying items like hand sanitizer and encouraging social distancing to reduce their fears about their risks around COVID-19.

**For vulnerable employees with pre-existing conditions (e.g. with asthma), they may have to be accommodated to ensure their safety.

Please visit the following link for more information:

<https://www.alberta.ca/ohs-legislation.aspx>

Q: How can I avoid laying off my employees during this difficult time?

A: Government of Canada is proposing to provide eligible small employers a **temporary wage subsidy** for a period of three months. The subsidy will be equal to 10% of remuneration paid during that period, up to a maximum subsidy of \$1,375 per employee and \$25,000 per employer. Businesses will be able to benefit immediately from this support by reducing their remittances of income tax withheld on their employees' remuneration. Employers benefiting from this measure will include corporations eligible for the small business deduction, as well as non-profit organizations and charities. **Supporting legislation to follow

CRA is allowing businesses to defer, until after August 31, 2020 the payment of any income tax amounts that become owing on or after the announcement until September 2020. No interest will accumulate on these amounts during this period.

Employers can look at reducing hours for employees to help with cashflow restraints. Under the new *EI Work sharing (WS) program*, employees who agree to reduce their normal working hours as a result of developments beyond the control of their employers, can access EI benefits while working fewer hours with their employer for up to 76 weeks. The program now has easier eligibility requirements and has streamlined the application process.

A WS unit must reduce its hours of work by at least 10% (one half day) to a maximum of 60% (three days). The reduction of hours can vary from week to week, as long as the average reduction over the course of the agreement is from 10% to 60%.

Individual employees in the same job description cannot volunteer to participate in WS while others decline to participate and continue to work normal hours.

The proposed reduction in work hours should correspond with the number of anticipated temporary layoffs. For example, if an employer submits a request for a 40% reduction in the hours of work, the employer must indicate there is a need to layoff approximately 40% of the workforce.

For more information visit this link:

<https://www.canada.ca/en/employment-social-development/services/work-sharing/guide-applicant.html#hb3>

Q: I've tried all options however my business is really struggling, and I cannot afford to keep my staff, what can I do?

A: You may want to consider *Temporary Layoffs* for your staff. In Alberta, the maximum duration of a temporary layoff is **60 total calendar days** within a 120-day consecutive period. On the 61st day of a temporary layoff, the employee's employment is considered to be ended, and the employer must pay termination pay.

The period of temporary layoff can be extended beyond 60 days if the employer makes regular payment to or on behalf of the employee, such as continuing to pay wages, employee pensions or benefits and the employee agrees to these payments in lieu of a firm limit of the length of the layoff. Termination pay is payable when payments in lieu cease.

A layoff notice of one or two weeks (depending on their length of service) must be given to the employee however this notice period may be shortened if there are "unforeseeable circumstances", such as the current situation of an international pandemic. If the current

situation makes it impossible to provide the required notice period (ie. Mandatory business closures), notice as soon as possible is required. It is recommended discussing options with legal counsel as there may be further obligations involved, such as when 50 or more employees are subject to layoff. Be cautious when considering temporary layoff of any employee who is on self-isolation leave for medical reasons.

Q: My employee doesn't have paid sick leave however, they are still home under self-isolation, quarantine or have to stay home to care for their children. Since they don't qualify for regular EI Sickness benefits, how will they have any income during this time?

A:

- 1) The Federal Government is offering an **Emergency Care Benefit** providing up to \$900 bi-weekly, for up to 15 weeks. This benefit is being administered through CRA and will provide income support to:
 - Workers, including the self-employed, who are quarantined or sick with COVID-19 but do not qualify for EI sickness benefits.
 - Workers, including the self-employed, who are taking care of a family member who is sick with COVID-19, such as an elderly parent, but do not qualify for EI sickness benefits.
 - 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.

Application for the Benefit will be available **in April 2020 and require Canadians to attest that they meet the eligibility requirements. They will need to re-attest every two weeks to reconfirm their eligibility. Canadians will select one of three channels to apply for the Benefit:

- by accessing it on their CRA MyAccount secure portal;
 - by accessing it from their secure My Service Canada Account; or,
 - by calling a toll-free number equipped with an automated application process.
- 2) The Alberta Provincial Government is implementing an **Emergency Isolation Support Program** which will bridge the gap until the Federal Program takes effect. Full and part time employees will be eligible if they are required to self-isolate or are the sole care-giver for a dependent who must self-isolate and who will not have another source of pay or compensation during this time.

To be eligible, employees:

- will not be required to have a medical note
- do not need to have worked for an employer for 90 days

*Employees cannot be terminated or temporarily laid off while taking this job protected leave.

Emergency Isolation Support Program will provide a one-time payment of **\$1,146 to those that qualify and** will be distributed to bridge the gap until the federal emergency payments begin in April. We expect the program to be available possibly within the week by completing a simple online application through Alberta.ca and that funds will be deposited in the accounts of eligible recipients. This program will benefit employees who are entitled to **14 days of job-protected leave** (recent change to Employment Standards) and who have no company sick time and/or do not qualify for EI benefits.

For more information on Emergency Isolation Support Program please visit:

<https://www.alberta.ca/covid-19-supports-for-albertans.aspx>

For more information on 14 day Job Protected Leave please visit:

<https://www.alberta.ca/covid-19-support-for-employers.aspx#toc-2>

Q: I've had to temporarily layoff many of my employees and to reduce my other employees' hours. Since I don't know how long this will last, what supports are available to them?

A: Canadians who lose their jobs or face reduced hours as a result of COVID's impact, the Government is offering an **Emergency Support Benefit** to support **workers not eligible for EI** and who are facing unemployment. While this program is intended to be long term income support, the government hasn't yet said how much it will provide, or how long funds will be given out. Once it is available, workers will be able to apply through the Canada Revenue Agency website, through a Service Canada account or by calling a new toll-free number that will be announced.

The Employer can apply for the SUB Plan for EI however, the problem with the SUB plan for EI top-up is that, by nature, it implies there has been no interruption in the employer's earnings, (otherwise they wouldn't have the ability to top-up) which is clearly not the case in this circumstance. Another issue with it is that it needs to be registered with Service Canada, which could take some time however employers are encouraged to still proceed with the application process.

Q: Can I make my employee take his/her leave entitlements (Vacation, Banked OT) during the period they are self-isolating?

A: Employers and employees may consider using available leaves should an employee be required to self-isolate. Employees can request using their vacation pay or banked overtime, but

employers are not required to grant the request. Provincial employment rules only require employers to provide vacation pay, vacation leave or pay banked overtime within a year of it being earned. Employers can request employees voluntarily take vacation leave and/or use their vacation pay or banked overtime but cannot force them to do so under provincial employment rules.

<https://www.alberta.ca/covid-19-support-for-employers.aspx#toc-2>