

## Ontario's declaration of emergency has ended... what does that mean for employers?

The province of Ontario declared the state of emergency to officially have ended on July 24<sup>th</sup>, 2020

On July 24<sup>th</sup>, 2020, *Bill 195, Reopening Ontario (Flexible Response to COVID-19) Act* came into force, which allows the provincial government to amend, extend, or revoke orders made under the *Emergency Management and Civil Protection Act* past the date of the provincial declaration of emergency ending. This includes extending various orders such as the stages of reopening, compliance with public health advice and limits on public gatherings.

Under *O. Reg. 228/20: Infectious Disease Emergency Leave*, employers were permitted to temporarily reduce or eliminate an employee's hours or wages throughout the COVID-19 period, without triggering a temporary lay-off, by placing them on the *Infectious Disease Emergency Leave*. The leave was deemed to run retroactively from March 1, 2020, until 6 weeks after the provincial state of emergency is declared over. Now that the provincial declaration of emergency is over, the COVID-19 period under the Regulation will end on **September 4<sup>th</sup>, 2020**.

Employers who had temporarily reduced their employee's hours or wages due to COVID-19 must **recall their employees on or before September 4<sup>th</sup>, 2020**. Employees would resume their previous position, hours of work and regular wages.

**If employers cannot recall employees back to work or restore their wages by September 4<sup>th</sup>, 2020, they have the following three options:**

### Option 1: Terminate the employee on or before September 4<sup>th</sup>, 2020

- ESA provisions governing termination and severance of employment will apply.

### Option 2: Continue the employee on a temporary layoff beyond September 4<sup>th</sup>, 2020

- ESA provisions governing temporary layoffs, as well as those pertaining to termination and severance of employment, will apply (i.e. 13 weeks in a 20-week period, which can be extended up to 35 weeks in a 52-week period).
- Because reductions in wages or hours of work between March 1<sup>st</sup>, 2020 and September 4<sup>th</sup>, 2020 are deemed under the *Infectious Disease Emergency Leave*, such period of time will not count toward the temporary layoff calculation.
- The first week of layoff would be the week after September 4<sup>th</sup>, 2020.

### Option 3: Continue the employee on the unpaid, job-protected *Infectious Disease Emergency Leave (IDEL)*

- As long as COVID-19 is designated as an infectious disease under the *ESA*, employees are entitled to take *Infectious Disease Emergency Leave* for any of the following reasons:
  - The employee is under medical investigation, supervision or treatment for COVID-19;
  - The employee is acting in accordance with an order under the *Health Protection and Promotion Act*;
  - The employee is in isolation or quarantine in accordance with public health information or direction;
  - The employer directs the employee not to work due to a concern that COVID-19 could be spread in the workplace;
  - The employee needs to provide care to a person for a reason related to COVID-19, such as a school or day-care closure; or
  - The employee is prevented from returning to Ontario because of travel restrictions.

Contact a member of our team before you make a decision to discuss your options and minimize your legal exposure.

Source: [www.ontario.ca](http://www.ontario.ca)

## Mental Health Matters

It is normal for us in this time of uncertainty to experience a decline in our mental health and people living with mental illness and addictions may be finding it especially difficult to cope.

That is why it is critical that employees know that their employers are here to support them and that we will all get through these uncertain times together. If you have an employee who requires mental health assistance, a number of resources can be found [here](#).



**Sector-specific Health & Safety Guidelines, Posters and Tip Sheets**  
<https://www.ontario.ca/page/resources-prevent-covid-19-workplace>

**Canada Emergency Wage Subsidy (CEWS)**  
<https://www.canada.ca/en/revenue-agency/services/subsidy/emergency-wage-subsidy.html>

**COVID-19 Self-Assessment**  
<https://covid-19.ontario.ca/self-assessment/>

**When and How to Properly Wear a Mask**  
<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public/when-and-how-to-use-masks>

**How to Properly Wash Your Hands**  
[https://www.who.int/gpsc/clean\\_hands\\_protection/en/](https://www.who.int/gpsc/clean_hands_protection/en/)

Good people turn to love, courage and kindness in times of crisis, not hate, fear and cruelty.

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