



## COVID-19 UPDATE, April 8, 2020

### *Introduction:*

This brief, weekly update is aimed at keeping employees and employers informed of COVID-19 related changes in the world of employment. To find more answers to common employment questions, you can:

- Visit the [Levitt LLP website COVID-19 page](#).
- Read [Howard Levitt's columns](#) in the National Post.
- Listen to Howard Levitt and the other lawyers from Levitt LLP on [Newstalk 1010](#).
- For a summary of key employment issues, such as whether your employer has a right to place you on a temporary lay-off and your right to a safe workplace, [contact us](#) to request the COVID-19 Bulletin circulated by Levitt LLP on April 1, 2020.

**Important:** Every one's circumstances are different. The information provided in this bulletin and at the above resources are for general information purposes only and are not intended to be legal advice.

If you are interested in obtaining legal advice for your specific problem, you can contact us to book a **free consultation on COVID-19 related issues**. To set up a consultation, call us now at 416-594-3900 or complete [this form](#).

### **IN THIS UPDATE:**

1. Canada Emergency Response Benefit – applications now open
2. Canada Emergency Wage Subsidy – still in progress
3. Revised list of non-essential businesses (Ontario)
4. New online portal for agri-food sector jobs (Ontario)
5. Wearing masks now recommended by Canadian health authorities
6. Emergency order for retirement homes (Ontario)
7. Certain provinces limit inter-provincial travel
8. Weekly tip: are temporary layoffs allowed?

#### **1. Canada Emergency Response Benefit**

The online portal for applying for the CERB opened on Monday, April 6, and can be found at this [website](#).

If applying online, Canadians will have to sign into their CRA My Account.

If applying by phone, Canadians can call the toll-free line at 1-800-959-2019, and should have their Social Insurance Number and postal code ready to verify their identity.

Both the online portal and the phone system will be closed between 3 AM and 6 AM Eastern Time for maintenance.

Note: to prevent overloading of the system, the government has set up a schedule for when individuals can apply, based on their birth month.

<b>If born in:</b>	<b>Apply on:</b>
January, February, March	Mondays (Best day to apply – April 6)
April, May, June	Tuesdays (Best day to apply – April 7)
July, August, September	Wednesdays (Best day to apply – April 8)
October, November, December	Thursdays (Best days to apply – April 9)
Any month	Fridays, Saturdays, Sundays

Applicants who set up a direct deposit are told they can expect to receive their first payment within three to five days. Payments by mail are expected to be delivered within 10 days.

Individuals who are eligible for the CERB are those who:

- Reside in Canada and are at least 15 years old;
- Have stopped working because of COVID-19;
- Have had income of at least \$5,000 in 2019 or in the 12 months prior to the date of the application;
- Have been or expect to be without employment or self-employment income for at least 14 consecutive days in the initial four-week period. For subsequent benefit periods, who expect to have no employment income; and
- Have not voluntarily quit their jobs.

Beginning April 6, there is a single portal to process all applications from those who are out of work due to COVID-19. Applicants will be guided through the process to determine which stream (i.e. EI Regular or CERB) best suits their situation.

EI-eligible individuals who have lost their jobs for other reasons should continue to apply for EI Regular benefits, and other eligible individuals can continue to apply for maternal, parental, caregiving, fishing, and worksharing benefits through EI.

## **2. Canada Emergency Wage Subsidy**

The Canada Emergency Wage Subsidy, which would assist employers with subsidies covering up to 75% of their employee wages up to a maximum of \$847 a week per employee for 3 months, is still in development. The government has announced that the subsidy is geared toward businesses of all types, including charities and not-for-profits, whose revenues in March, April, or May 2020 are at least 30% lower than their revenues from the same month in 2019.

Employers would not be able to claim the Canada Emergency Wage Subsidy for employees who have received the CERB during the same period.

The government has said that the program requires further legislation to be passed and it may be another 5 weeks before applications are accepted.

Employers who are not eligible for the 75% wage subsidy may still be eligible for the [previously announced 10% subsidy](#), which operates through a reduction in required wage-related remittances to the CRA.

Further information can be found at this [website](#).

## **3. Revised non-essential business list – Ontario**

On April 3, 2020, the Ontario government announced that it was revising the list of essential businesses that were permitted to remain open.

The updated list of essential businesses can be found at this [website](#).

As of Saturday April 4, 2020, all businesses not found on that list are to close any physical locations. Certain businesses have been directed to only provide alternative services such as curbside pickup and delivery. Working remotely and online commerce are still permitted for all businesses.

The list will remain in effect for 14 days, with the possibility of extension.

## **4. New online portal for agri-food sector jobs – Ontario**

The Ontario government has launched a [new web portal](#) that will connect workers with employers looking to fill positions in the agri-food sector.

The purpose of this new website is to ensure that the supply chains providing food for the people of Ontario remain intact and fully operational.

## **5. Wearing masks now recommended by Canadian health authorities**

Until recently, Canadian public health authorities did not recommend that individuals (unless they were health care professionals) wear masks to limit the spread of COVID-19.

However, in response to new evidence, the Public Health Agency of Canada has now said that Canadians can use non-medical masks along with social distancing to protect themselves and others while out of the house.

Although it is still not clear just how effective a non-medical mask is, they are now recommended as an extra level of protection.

Employers are required to provide their workers with safe workplaces. Now that the Canadian Public Health Agency has taken the position that masks can offer protection against the virus, employers should consider whether they ought to provide masks in the workplace, and employees should consider requesting them.

However, since masks do not guarantee safety from the virus, employers still need to ensure that they have taken other preventative measures that are appropriate in the circumstances.

## **6. Emergency order regarding retirement homes – Ontario**

The Ontario government passed a temporary order directed at retirement homes, on April 3, 2020 under the *Emergency Management and Civil Protection Act*.

The purpose of the order is to help retirement homes fulfill their emergency staffing by giving them more flexibility in recruiting and reassigning staff members.

Retirement homes are also required to report any outbreak of COVID 19 needs as they respond to COVID 19.

The order will remain in effect for 2 weeks unless extended. More information can be found at this [website](#).

## **7. Limits on domestic travel**

To slow the spread of COVID 19, eight provinces and territories have set up checkpoints to monitor and/or limit non-essential inter-provincial travel: Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Northwest Territories, Yukon, Nunavut, and Manitoba.

The number and purpose of the checkpoints varies between the provinces and territories.

### **8. Weekly tip: Are temporary layoffs allowed?**

An employer may only temporarily lay-off an employee in the following cases:

1. If the employment contract expressly permits it,
2. The right is implied (for instance, as an industry practice or based on past practice), or
3. The employee has agreed to the layoff.

If an employer chooses to temporarily lay off an employee outside of three scenarios listed above, then the employee has a potential lawsuit for constructive (wrongful) dismissal.

An employee who has been informed that they are about to be laid off will want to consider whether it is in their best interests to accept the layoff, or to treat it as a wrongful termination and pursue a claim for damages.

Employees are entitled to take a “reasonable” amount of time to decide whether or not they will accept the layoff (what is “reasonable” will depend on the context). However, employees should make their decisions relatively quickly since if they decide to accept (or appear to have accepted) the layoff, they will be unable to refuse it at a later time.

If an employee wants to accept the temporary lay-off because they hope to be able to return to the job, they should inform their employer clearly and in writing that they have only done so because of the current exceptional circumstances. Otherwise, there is a risk that since they agreed to the temporary layoff, the employer may be allowed to temporarily lay them off again in the future.

If you believe that you have been wrongfully placed on a temporary layoff by your employer, you can contact us to book a **free consultation on COVID-19 related issues**. To set up a consultation, call us now at 416-594-3900 or complete [this form](#).

***Co-authored by Levitt LLP Articling Students Michael VanderMeer and Sarah Helmer.***

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