
COVID-19 and Construction Businesses

Employment Issues

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Agenda

- Employment issues
 - Leaves of absence
 - Layoff
 - Termination of Employment
 - Employment agreements
- Government programs and subsidies

Leaves of Absence

- “Job protected” leave

- *Employment Standards Act, 2000*

- Pregnancy and parental leave, sick leave, etc.

- Emergency Leave: Declared Emergencies and Infectious Disease Emergencies

- Other employment leaves

- Record of Employment – Code “N” (Leave of Absence) or Code “D” (Illness/injury)

- Obligations at conclusion of leave

Layoffs

■ Temporary layoff

- If benefits are not continued

 - 13 weeks in 20 week period

- If benefits are continued

 - 35 weeks in 52 week period

- Record of Employment – Code “A” (Shortage of Work)

■ Recommendation

- Get “agreement” to layoff and continue benefits

Termination of Employment

■ *Employment Standards Act*

□ Termination Pay

- ~1 week per year to maximum of 8 weeks

□ Severance Pay

- Large employers – Payroll over \$2.5 million
- 5+ years of service
- 1 week per year to maximum of 26 weeks

□ Exception for “construction employees”

Termination of Employment

- Common law – “reasonable notice”
 - If no enforceable employment contract limiting to *ESA* or other amount
 - Judge will consider
 - Age, tenure, role, salary, available positions, etc.
 - ~1 month per year to max of 24
- Record of Employment – Code “M” (Dismissal)
- Recommendation
 - Make an offer and get a release

Employment Agreements

■ New employees

- Prepare and execute employment agreement prior to first day of work

- Sets out expectations for relationship

- Minimizes “constructive dismissal” claims

- Defines entitlement upon termination

■ Existing employees

- Provide “consideration” for agreement

Government Subsidy Programs

- All “Small Employers”
 - Taxable capital under \$15 million
 - 10% subsidy for all wages over 3 months
 - Maximum - \$1,375/employee or \$25,000/employer
 - Calculated in remittances to Canada Revenue Agency
 - Reduce remittances by amount of subsidy
- More information – [Canada Revenue Agency](#)

Government Subsidy Programs

- Canada Emergency Wage Subsidy (CEWS)
 - Company revenues must drop at least 30%
 - Month-to-month calculation
 - Subsidy applies to all employees on payroll
 - 75% subsidy (max of \$847 per week per employee)
 - Not combined with 10% subsidy
- More information – [Government of Canada](#)
- More information – [Sherrard Kuzz LLP webinar](#)

Questions?



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- Frequently Asked Questions
 - [General FAQs re: COVID-19](#)
 - [Construction FAQs re: COVID-19](#)



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