

As the situation with COVID-19 continues to unfold in Alberta and around the world, businesses are coming to grips with the reality that this situation will likely continue for longer than originally anticipated, and with much more broadly reaching effects. We are continuing to do our best to stay abreast of the latest developments so that we can assist our clients to navigate these increasingly difficult times.

This information is intended for non-unionized workers, so if you require information related to your unionized employees, please feel free to reach out and we will direct you to alternate sources of information.

Please note that this is a rapidly changing and evolving situation, and that this information is based on our best knowledge at the current time. Due to the unique circumstances of every business, not all information is applicable to all employers, so please feel free to contact us with any questions.

Q1: We have been forced to layoff a number of our employees on short notice due to the COVID-19 outbreak. When are we required to pay them their accrued wages and vacation pay?

The *Employment Standards Code* does not give any guidance on the payment of earnings when implementing layoffs. To be on the safe side, we advise compliance with the rules for payment of earnings on termination – namely, that they should be paid no later than three consecutive calendar days after the last day of employment. If you have some lead time for the layoffs and can handle it administratively, it may be beneficial to give employees their notice of layoff and final accrued pay at the same time, especially if the federal government has not yet waived the one-week waiting period for regular EI benefits.

Q2: If we are forced to cease operations, or cannot bring our employees on layoff back to work after 60 days, what do we need to consider aside from the payment of termination notice?

If you will be terminating 50 or more employees within a four-week period, the *Employment Standards Code* has special rules relating to group terminations with which you need to comply. The employer must give the Minister of Labour and the affected employees the following amount of written notice according to the number of employees affected:

- 8 weeks - 50 or more employees but less than 100
- 12 weeks - 100 or more employees but less than 300
- 16 weeks - 300 or more employees

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This notice can be provided as working notice or pay in lieu of notice, or a combination of both. In the circumstances of a mass termination, the notice periods are based solely on the number of employees being terminated, regardless of the years of service that an individual employee may have.

Failure to give the required notice to the Minister of Labour can result in an administrative penalty being imposed on the employer. Once the Minister has been informed, staff will offer the employer information about programs and services available to the terminated employees through the governments of Alberta and Canada.

These rules may well be relaxed by the government at some point in future as a result of the current pandemic, however until that happens, employers will be expected to comply with the current rules.

Q3: We have operations in other jurisdictions where we will also need to layoff employees. Can we use the same form of layoff notice we have used in Alberta for our employees in other provinces?

We do not recommend using the same layoff notification form for employees in other provinces, as the rules in each province can differ widely. For example, in some provinces, advance notice of the layoff is not required, and in others, temporary layoffs are not permitted unless they are allowed by a collective agreement, employment contract or employee consent. In yet other jurisdictions, there is little practical difference between a layoff and a termination of employment, and the circumstances giving rise to a temporary layoff can differ widely. If you plan to implement layoffs in other jurisdictions, we recommend obtaining the opinion of a practitioner in that province. Through our Interlaw partner firms across the country, we are happy to assist you in clarifying your legal obligations when implementing layoffs in other provinces.

Q4: We wish to avoid laying off our employees for as long as possible, and many of our staff have agreed to reduce their work hours through a job-sharing arrangement. Are there any provincial or federal programs which can help to top up their earnings?

The federal government has recently made changes to the EI Work Share Program, which provides EI benefits to workers who agree to reduce their normal working hours as a result of developments beyond the control of their employers. These changes have extended the eligibility of such agreements to 76 weeks, have eased eligibility requirements, and streamlined the application process. The purpose of this program is to assist employers to avoid layoffs, and to support employees who are receiving a reduced income as much as possible. Our understanding is that the employer has to apply for this

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program and that there may be some lead time to do so (although likely not as much as previously) so if you think that you might want to implement the program at some future time, we recommend that you take steps to register as soon as possible. Further information about the program and its requirements should be found on the Service Canada website.

<https://www.canada.ca/en/employment-social-development/services/work-sharing/temporary-measures-forestry-sector.html>

Q5: Are there any provincial or federal government programs to assist our small to medium business survive the economic fallout of the COVID-19 pandemic?

There have been numerous initiatives announced by the provincial and federal governments recently to provide financial assistance to businesses affected by these unprecedented circumstances, and we understand that additional aid programs are currently under consideration. For the time being, however, these are some of the programs of which we are aware as of the present time:

Provincial Programs

https://www.alberta.ca/covid-19-support-for-employers.aspx?utm_source=google&utm_medium=sem&utm_campaign=Covid19&utm_term=SupportsForAlbertans&utm_content=v1&gclid=CjwKCAjwquzzBRBiEiwAqU0FT0H5q2W_OtAD0unYq5EI01397eyocUrOQxFFwE3CSQzae84k7t0p4xoCiSMQAvD_BwE

Corporate income tax changes

- Corporate income tax balances and instalment payments will be deferred from March 19 until August 31, 2020 to increase employers' access to cash so they can pay employees, address debts and continue operations.

Education property tax deferral

- Collection of non-residential education property tax for businesses will be deferred for 6 months.
 - Municipalities are expected to set education property tax rates as they normally would but defer collection.
 - Deferred amounts will be repaid in future tax years.
- Commercial landlords are encouraged to pass savings on to their tenants through reduced or deferred payments to help employers pay their employees and stay in business.

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- Businesses capable of paying their taxes in full are encouraged to do so.

WCB premium payment deferral

- Small (1-49 employees), medium (50-199 employees) and large (200+ employees) private sector employers can defer WCB premium payments until 2021.
 - For small and medium businesses, the government will cover 50% of the 2020 premium when it is due in 2021 – saving businesses \$350 million.
 - Large employers will have their 2020 WCB premium payments deferred until 2021, at which time their premiums will be due.
- Employers who have already paid WCB premiums in 2020 are eligible for a rebate or credit.

<https://www.alberta.ca/assets/documents/wcb-covid-19-employer-fact-sheet.pdf>

https://www.wcb.ab.ca/assets/pdfs/employers/EFS_Premium_relief.pdf

Utility payment deferral

- Residential, farm and small commercial customers can defer electricity and natural gas bill payments for the next 90 days to ensure no one will be cut off, regardless of the service provider.
- This program is available to Albertans who are experiencing financial hardship as a direct result of COVID-19. For example, those who have lost their employment or had to leave work to take care of an ill family member.

Federal Programs

Tax Deferral

- The CRA will allow all businesses to defer, until after August 31, 2020, the payment of any income tax amounts that become owing on or after March 18 and before September 2020. No interest or penalties will accumulate on these amounts during this period.
- This relief applies to tax balances due, as well as instalments, under Part I of the *Income Tax Act*.
- We understand that this deferral will happen automatically.

Business Credit Availability Program (BCAP)

- There are few details available right now, so we are hoping for additional information in the next couple days. So far, we know:

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- It is generally targeted to small and medium-sized businesses.
- Over \$10 billion in loans will be provided through the BCAP program.
- BCAP will provide financing and credit insurance solutions to eligible businesses. It is intended to help businesses seeking financing to support their operations and maintain jobs.

Cooperation with participating private-sector lenders:

- BCAP is administered by the Business Development Bank of Canada (BDC) and Export Development Canada (EDC) in cooperation with participating private-sector lenders. Businesses seeking support through BCAP should contact the financial institutions with whom they have a pre-existing relationship, so that the financial institutions can assess the client's financial request. If the client's needs exceed the level of support the financial institution is able to provide, the financial institution can work alongside BDC to access additional resources (and/or EDC if applicable).
- The following financial institutions are participating in BCAP, and will work together with BDC/EDC to find credit solutions for creditworthy business clients who would otherwise have insufficient access to credit:

Bank of Nova Scotia	BMO
CIBC	HSBC
TD Bank	RBC
National Bank	Desjardins
Laurentian Bank	Canadian Bankers Association
Canadian Credit Union Association	

- The loans are expected to be provided at the current market rates, although this may change.
- The government is asking businesses to contact their own financial institutions directly. The financial institution will then assess the business' creditworthiness and loan request, then contact BDC "where appropriate."

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

Temporary Wage Subsidy

- To help prevent layoffs, the government is proposing to provide eligible small employers a temporary wage subsidy for a period of three months.

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COVID-19 EMPLOYER INFORMATION UPDATE #3

Current and accurate as of March 26, 2020

- 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.
- We are not certain at this time if this measure has actually been enacted, but you should seek advice from your accountant to ensure that your business qualifies and how to apply for it.

Recognizing that things are changing rapidly, and each business and workforce is unique, please do not hesitate to reach out with questions, concerns, or if we can be of assistance in any way.

Also, we note that this information is current as of business on March 26, 2020 and will be subject to change following this date.

From us and the Bishop & McKenzie team, please stay safe and healthy!

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