



COVID-19 Update March 20, 2020: Employment and Immigration Considerations

March 19, 2020

On the afternoon of March 19, 2020, Prime Minister Trudeau made the following important announcements regarding actions the Government of Canada is taking to address the COVID-19 pandemic:

FOR EMPLOYERS AND EMPLOYEES

- Introduction of an **Emergency Care Benefit** for workers without access to paid sick leave or Employment Insurance (“EI”) benefits, but who must remain at home. These are workers who are ill, who must self-isolate, are placed in quarantine, or who must care for ill family members. Emergency Care Benefits will last for a period of 15 weeks and will provide up to \$900 bi-weekly.
- For workers who lose their job and do not qualify for EI, an **Emergency Support Benefit** is being created. This benefit will provide support to self-employed or part-time workers who lose their jobs or cannot work and require financial assistance due to unemployment.
- A **Temporary Business Wage Subsidy** will be available to assist small businesses keep staff on payroll, avoiding temporary layoffs. The Temporary Wage Subsidy will be equivalent to up to 10% of an employer’s total wage bill for a maximum of 3 months.

These new announcements are in addition to those made last week waiving the 1 week waiting period to apply for paid sick leave or regular EI benefits. The government will be accepting applications for these programs starting in April 2020 through [CRA MyAccount](#), [My Service Canada Account](#), or by calling a toll free number that has not been made public yet.

For employers who continue to operate, the Temporary Business Wage Subsidy may be a useful option. Additionally, legislation in Ontario requires employers to provide leave to any employee who appropriately requests or requires it. **For employers whose businesses are closed by government order or circumstance**, the support programs provided are useful measures to keep employees on payroll and preserve the status quo to the extent possible. However, reliance on the statutory mechanisms of layoffs and unpaid leave may also be necessary and appropriate depending on the employer’s circumstances and legal advice should be sought prior to implementation of these measures.

If reliance on layoffs is necessary, employers are permitted to put employees on temporary layoff and also continue to schedule them for some hours. An employee who qualifies for EI will only have to repay 50 cents of every dollar of EI benefits they receive if they simultaneously earn employment income. There is also the EI Work-Sharing program that can support employers who must reduce employee hours due to circumstances outside their control affecting business. Both of these options can help employers who continue to require employees for their business, but are not in a position to pay the employee's usual income.

FOR FOREIGN WORKERS

- Foreign workers who have made EI contributions may be eligible for EI (see <https://www.canada.ca/en/services/benefits/ei/ei-regular-benefit/before-applying.html> for eligibility requirements). Employers who have or plan to layoff foreign workers should seek legal counsel to ensure compliance with immigration and employment laws.

FOR COMPANIES DOING BUSINESS IN THE US

- Canada and the US have reached a joint agreement to close their shared border to all non-essential travel, such as travel for tourism and recreation. The border will remain open for essential travel, commerce, and trade in order to preserve our supply chain.

These immigration measures are in addition to the announcements made on March 16th closing Canada's borders to all except Canadian citizens and permanent residents, with limited exceptions. Please ensure the immigration status of each employee is reviewed and maintained and that all work permit and permanent resident renewals are submitted in a timely manner. If necessary, applications should be made for implied status. Once a foreign worker exits the country, there is no confirmation they will be able to return. Legal advice should be sought before any business travel is approved, to determine if it will qualify as essential travel or not.

Together these announcements were part of a larger economic response plan being implemented by the Government of Canada to support Canadians and Businesses during the COVID-19 pandemic. In addition to the measures above, the response plan includes flexibility on filing taxes, supporting Canadian export businesses through the Canada Account and ensuring credit is available for businesses that need it to stay afloat.

For more information, please contact:

David Bleiwas at 416-306-1813 or dbleiwas@beardwinter.com.

The information contained in this article is for general information only and is not intended as legal advice or opinion. Should you require any advice or assistance with this or any other issue affecting your business, then please do not hesitate to contact us.