

COMPLIANCE BULLETIN

HIGHLIGHTS

- The Ontario government amended the ESA to cover those temporarily laid off due to COVID-19 by Infectious Disease Emergency Leave.
- The change protects organizations from needing to permanently terminate their employees and suffer financial losses related to COVID-19.
- Employees remain employed and legally protected with access to federal emergency income support programs.

IMPORTANT DATE

March 1, 2020

Date to which the ESA change is retroactive

COVID-19 Temporary Layoffs Now Deemed Emergency Leaves in Ontario

Changes to the Employment Standards Act

On May 29, 2020, the Ontario government made amendments to the Employment Standards Act (ESA) so that the Infectious Disease Emergency Leave now extends to employees who had their hours or wages temporarily reduced due to COVID-19. This change is retroactive to March 1, 2020, and will expire six weeks after the declared emergency ends.

Impact on Employers and Employees

The amendment is designed to protect organizations from needing to permanently terminate their employees and suffer financial losses that could shut down their operations due to COVID-19. Furthermore, qualifying employees will remain employed with legal protections and be eligible for federal emergency income support programs.

All requirements, entitlements and prohibitions associated with ESA leave apply, save for the following exceptions:

- Employees are relieved of the notice requirements that otherwise apply to them under an Infectious Disease Emergency Leave.
- Employee participation in and employer contributions to pension, life insurance, accidental death, extended health or

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dental plans during the leave are not required if they had stopped as of May 29, 2020.

The following employees are not considered to be on an Infectious Disease Emergency Leave:

- Employees who have been terminated after March 1, 2020
- Employees who gave written notice of termination, unless the employer and employee agree to withdraw the termination
- An employee who, before May 29, 2020, is constructively dismissed and resigns from their employment in response to the dismissal within a reasonable period
- An employee who is laid off before May 29, 2020, for longer than is considered a temporary layoff under the ESA

Notably, employers are not prohibited from terminating employees whose hours or wages were reduced due to COVID-19.

See the full details of the changes [here](#), and contact Mumby Insurance Brokers, Inc. to learn how this may affect you.

² This Compliance Bulletin is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.