

RESUMING OPERATIONS DURING COVID-19: WHAT EMPLOYERS NEED TO KNOW

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15 May 2020

In the previous few weeks, provincial governments have released plans to allow many businesses to resume operations. In this bulletin, we focus on the guidance provided in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, and Quebec. Further, we set out the preventative measures that employers in these provinces should take to help prevent the spread of COVID-19.

Guidance from Provincial Governments

British Columbia

Following BC's provincial health officer, Dr. Bonnie Henry's comments on May 4, 2020 that "this is the end of the beginning of this pandemic" and BC Premier John Horgan's recent announcement of a phased approach to reopening a number of business as early as mid-May, we will begin to see social restrictions being gradually lifted in the immediate future.

As businesses begin gradually resuming operations to normal capacity, employers will be required to implement preventive measures for their employees and customers in order to ensure that their activities can resume in the safest and healthiest possible conditions during the current pandemic. In this regard, WorkSafe BC has recently provided some general guidance for BC employers returning their employees to work. Employers in BC are required to develop a plan that reduce the risk of transmission of exposure to Covid-19. The Public Health officer has also issued sector-specific guidance and orders found here.

Alberta

The Alberta Government has announced its three-stage plan to gradually re-open the economy. The first stage began with the re-opening of some businesses and services on May 14, 2020 in most of Alberta with the exception of Calgary and Brooks. Businesses that are permitted to open during stage one in Alberta (except Calgary and Brooks), include retail businesses, hairstyling and barbershops, cafés, restaurants, pubs and bars at 50% capacity. A full list of businesses that are permitted to begin operating can be found under stage 1 of the [Alberta relaunch strategy page](#).

Due to the number of active COVID-19 cases in Calgary and Brooks, the Government of Alberta has altered the first stage of opening in these areas. Re-opening will be more gradual and set out in accordance with the Government's [relaunch strategy for Calgary and Brooks](#). The Government of Alberta has not yet assigned dates to stages two and three of the relaunch plan.

In an effort to assist businesses in their operations, the [Alberta Government has released workplace guidance for employers](#). These guidelines were developed to support all business and sectors, excluding health care settings. The guidelines include criteria to be assessed when developing policies and procedures to address the risks associated with the COVID-19 pandemic. [Alberta has also released a number of specific guidelines](#) for sectors such as industrial work camps, farmers' markets and golf course operators. All workplaces are expected to develop and implement these policies and procedures before re-opening or continuing operations.

In addition to the general information, the guidelines provide specific guidance regarding retail items and goods that are to be delivered or ordered through drive through, take-out and curbside pickup. Additionally, large production facilities, such as food processing, manufacturing plants, etc., are to incorporate at minimum the following measures into a written COVID-19 preparedness and response plan:

1. Site map
2. Physical distancing requirements
3. Use of Administrative, Engineering and Personal Protective Equipment
4. Cleaning and Disinfection
5. Staff and Visitor Inventory (operators are to develop and maintaining up to date rolling 6 week inventory of all people visiting the worksite)
6. Site-specific isolation and quarantine protocols
7. Screening

8. Communication protocols

Saskatchewan

Saskatchewan's five-phase plan to re-open the economy began on May 4, 2020. The Saskatchewan Government has provided general operating guidelines for all businesses re-opening or currently operating in Saskatchewan. In addition to the general guidelines, specific guidelines for those businesses that are permitted to re-open during phase one (including non-urgent medical services and golf courses) and phase two (retail and personal care services) have been published.

Manitoba

In connection with Manitoba's Pandemic and Economic Recovery Roadmap, the Manitoba Government has developed guidelines for business owners. These guidelines are not industry specific; however, they do not include recommendations for health care facilities as there are separate health care resources available. Guidance has also been provided for those business permitted to operate during phase one.

Ontario

The Ontario announced a three-phase plan to re-open the economy. An overview of the program can be found in our recent bulletin. To ensure the health and safety of workers while businesses re-open, or continue operations, businesses must follow the directives and guidelines on COVID-19 set out by the Ontario Government and health authorities. Resources to prevent COVID-19 in the workplace can be found here. Four provincial Health and Safety Associations have published sector specific guidelines in consultation with the Ministry of Labour:

- Infrastructure Health and Safety Association (IHSA) has published guidelines for the construction, electrical and utilities, aggregates, natural gas, ready-mix concrete and transportation sectors;
- Public Service Health and Safety Association (PSHSA) has published guidelines for hospitals, nursing and retirement homes, residential and community care facilities, universities and colleges, school boards, libraries and museums, municipalities, the provincial government and its agencies, fire / paramedic services and First Nations;
- Workplace Safety North (WSN) has published guidelines for the forestry, mining,

smelting, refining, paper, printing and converting sectors; and

- Workplace Safety and Prevention Services (WSPS), has published guidelines for the agriculture, manufacturing and service sectors.

Prior to re-opening, and while COVID-19 remains a health risk in Canada, businesses should consult these guidelines to ensure compliance.

Quebec

Quebec has announced the gradual re-opening of activities. An overview of the reopening of businesses can be found in our previous bulletin. Businesses will be required to implement preventative measures to ensure the health and safety of their workers and patrons. The Commission des normes, de l'équité, de la santé et de la sécurité du travail (the "CNESST") has prepared a generic guideline for employers to follow. An overview of the guideline can be found in our previous bulletin. In addition to this guide, the CNESST has also prepared toolkits for the manufacturing sector, retail sector and mining industry, as well as a guide specifically geared towards the construction sector.

Health and Safety

Health and safety legislation across Canada requires that all employers ensure the health and safety of their workers. To do so, employers are obligated to conduct a hazard/risk assessment of their work sites to identify any hazards/risks, including the risk of transmitting COVID-19. Employers are expected to take all steps to eliminate or control the risk. Where an employer cannot eliminate the risk, employers must implement one or a combination of the following controls:

- **First Choice: Engineering Controls.** These control the hazard itself. Engineering controls include placing barriers/partitions between workers/visitors, removing seats in lunchrooms and restricting access to the building.
- **Second Choice: Administrative Controls.** These control the way workers and visitors interact. Administrative controls include policies regarding social distancing, proper hand washing hygiene, and limiting hours of operation.
- **Personal Protective Equipment.** This is seen as the last resort to be implemented where engineering and administrative controls are insufficient. Examples include gloves, eye protection, masks and gowns.

Following the assessment, employers must ensure that their current health and safety

policies/practices are up to date to address the risks associated with COVID-19. Where employers do not have these policies/practices in place, it is imperative that employers implement same. The remainder of this bulletin sets out some of the considerations employers should take into account when operating during the pandemic. This list is not exhaustive and the considerations for each business will vary.

Assess Risks Arising from Resuming Operations

Employers must be mindful of risks relating to resuming operations. At the outset, employers must consult provincial orders and guidelines to ensure that they are permitted to resume operations. Employers that operate in multiple provinces must consult the orders and guidelines in each respective province as the timelines for re-opening may differ between jurisdictions.

After it has been determined that the employer may resume operations, the employer must conduct the health and safety assessment as outlined above and implement controls to ensure the health and safety of their workers.

Where possible, employers are encouraged to maintain teleworking arrangements and allow employees to work from home or work flexible hours. It is recommended that employers assign employees with a greater risk of contracting COVID-19, to job tasks with lower risk of exposure.

Communication Related to Employees and Patrons regarding COVID-19

Employers are expected to notify staff, volunteers and patrons of the steps that the business is taking to prevent the spread of COVID-19. Employers are expected to communicate to staff, volunteer and patrons the requirement to self-isolate and quarantine in accordance with public health orders and to maintain physical distancing.

To assist businesses in communicating with staff, volunteers or patrons, posters and signage have been developed:

- The Federal Government's [infographic on handwashing can be found here](#).
- British Columbia's Centre for Disease Control has released a [number of posters found here](#).

- The Alberta Government [informational posters can be found here](#).
- Sector-specific [posters in Ontario are located here](#).
- Saskatchewan has released a "[protect yourself and others](#)" poster.
- Shared Health Manitoba has provided [informational signs, found here](#) .
- Publications du ministère de la Santé et des Services sociaux has provided a number of [posters and informational bulletins found here](#).

Procedures regarding Symptomatic Workers

Employers should communicate to workers that they are required by to abide by all public health orders and guidelines regarding self-isolation and quarantine. This includes reminding workers to stay home if they show any symptoms. Employers should encourage workers with symptoms to complete self-isolation screening tools in their province and encourage symptomatic employees to get tested for COVID-19.

The health and safety policies/procedures should include an infection control plan that addresses situations where a worker or patron attend the worksite and are symptomatic. The Alberta guidelines recommend the following steps be taken if a worker comes to the workplace sick, or becomes sick while at work:

- Workers who appear to have acute respiratory illness symptoms (e.g., cough, shortness of breath) at the workplace, should begin isolation at home immediately.
- After being directed to leave the business, symptomatic workers should follow hand hygiene and respiratory etiquette and maintain at least 2 meters of distance from other employees, volunteers and patrons.
- Arrangements should be made by the employer for transportation home where needed. Public transportation like buses, taxis or ride sharing should be avoided.
- Once a sick individual has left the workplace, clean and disinfect all surfaces and areas with which they may have come into contact.
- The employer should immediately consider and record the names of all close contacts of the sick worker has been in contact with that day and in the 48 hours prior to when the symptoms started in the case. This information may be necessary if the sick worker later tests positive for COVID-19.
- Employers should familiarize themselves with any provincial obligation to report symptomatic employees, or those who have tested positive.

While these recommendations are provided in the Alberta Guidelines, employers in all provinces should adopt similar procedures. Symptomatic employees and those that have

tested positive are required to self-isolate in each province. Employers must ensure that the workers do not return to work prior to the expiry of the mandatory self-isolation period in each province.

Screening for COVID-19

Employers should implement active daily screening of workers for symptoms. Many employers have implemented questionnaires to screen workers. It is recommended that the questionnaire include the questions similar to the following:

1. Is the worker showing any symptoms of COVID-19 (illness including a fever, cough, sore throat, headache, muscle aches, fatigue, runny nose, joint aches, nausea, diarrhea, stomach pain or loss of taste or smell)?
2. Does the worker have a fever?
3. Does the worker have difficulty breathing/respiratory issues?
4. Has the worker exhibited any of the above symptoms within the last 14 days?
5. Has the worker been in close or casual contact with someone who is exhibiting any of the above symptoms, OR has exhibited any of the above symptoms within the last 14 days?
6. Has the worker been in close or casual contact with someone who has a laboratory confirmed or a presumptive COVID-19 diagnosis within the last 14 days?
7. Has the worker returned from travel outside of Canada in the last 14 days?
8. Has the worker been in close or casual contact with someone who has returned from travel outside of Canada in the last 14 days?

Employers may refuse entry into the workplace for those workers who have answered yes to any of the above questions. When a worker answers yes to any of the above questions, employers should recommend that the worker stays at home and contacts the local public health organization for further instruction.

Other screening measures may include visual observation or temperature screening. Prior to implementing any screening method, we recommend that you consult legal counsel, as there are privacy and human rights considerations involved. For a discussion regarding privacy and human rights considerations with respect to temperature screening, [please see our earlier bulletin](#).

Physical Distancing

Employers must ensure that the workers and patrons are adhering to the requirements to maintain physical distancing of at least 2 meters. It is recommended that employers put up informational posters setting out physical distancing requirements. Where physical distancing is not possible, other measures should be used such as:

- Providing personal protective equipment;
- Installing physical barriers;
- Maximizing telework;
- Increase ventilation, where possible.
- Increase environmental cleaning and hand hygiene.
- Reorganizing working methods (e.g. favouring small and stable teams, introducing rotations for breaks, reducing the number of workers, not scheduling physical meetings, limiting unnecessary travel, etc.).

To ensure physical distancing requirements are upheld to the fullest extent possible, employers are encouraged to maintain a single point of entry, implement waiting room strategies and monitor occupancy levels.

Ensure Proper Hygiene

Employers should remind workers to follow proper hygiene protocols:

- Hand hygiene - washing hands with soap and water or an approved alcohol based hand sanitizer
- Respiratory etiquette - coughing/sneezing into the bend of elbow
- Remind workers and patrons to avoid touching their own face and to avoid sharing personal items.

It is recommended that this information be posted in workplaces in multiple locations including washrooms and shower areas.

Where possible, businesses should provide alcohol based hand sanitizer at entrances and exits and ensure boxes of tissues and plastic-lined garbage bins are available for use by employees, volunteers and patrons.

Frequent Cleaning and Disinfection

Employers are expected to develop and implement procedures for increasing the frequency of cleaning and disinfecting of high traffic areas, common areas, public

washrooms and showering facilities. High-touch and shared surfaces such as doorknobs, elevator buttons, and phones must be cleaned and disinfected frequently.

Businesses are encouraged to clean and disinfect commonly used items/areas and shared equipment at least twice daily, or when visibly soiled. All unnecessary high touch surface items that cannot be easily cleaned and disinfected should be removed.

Personal Protective Equipment

Personal protective equipment (such as masks or gloves) outside of health care facilities is seen as a last resort, to be implemented by employers only where engineering and administrative controls will not suffice to protect worker's health and safety. The equipment is to be used in addition to other control methods as opposed to in place of controls such as ensuring physical distancing and requiring physical barriers. While masks need not be supplied by employers in many cases, an employee may wear their own mask should they wish to do so.

Recalling Employees and Employee Refusal to Return

After an employer has determined that they are legally permitted to resume operations, and has implemented the necessary health and safety precautions, employers must begin the process of returning employees to work. Upon receiving a recall notice, some employees have voiced concerns with respect to returning to work. We recommend that employers establish a policy to address employee concerns in the following situations:

1. An employee is concerned that they or someone they live with is at high risk of contracting COVID-19.
2. The employee is acting as a caregiver to children or ill relatives.
3. The employee has a generalized fear of contracting COVID-19.

Where possible, it is recommended that employees that have a higher risk of contracting COVID-19 are accommodated by allowing those employees to work from home or assign them to job tasks with lower risk of exposure.

Employees that have obligations as caregivers to children or adults may be entitled to statutory leave. Employers should take appropriate steps to determine whether their employee is entitled to leave under the applicable employment standards legislation. In

addition to existing leaves, provincial governments across Canada have implemented a number of leaves in response to COVID-19. For an overview of these leaves, [please see our earlier bulletin](#).

Under Occupational Health and Safety legislation, employees in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, and Quebec have a right to refuse dangerous work. The risk of COVID-19 may qualify as dangerous work where employers fail to comply with public health orders and fail to conduct hazard/risk assessments and implement the appropriate controls. Where employers have complied with public health orders and occupational health and safety legislation, a generalized fear of COVID-19 will likely not qualify as a basis to refuse work. However, an employer must conduct an investigation into the circumstances that the employee states as the basis for refusing work whenever an employer receives a refusal. Employers should communicate with the employee that refuses, the reason that the employer believes the work to be safe, including all measures the employer has taken to mitigate the risk of COVID-19. We recommend that employers clearly document employee refusals and their responses.

To learn more about the extent of your occupational health and safety obligations following the return to work of your employees after confinement, please contact our [Employment, Labour and Equalities](#) group.

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Authors

Jonathan J. Lam

Associate - [Vancouver](#)

 Email

jonathan.lam@gowlingwl.com

 Phone

+1 604-891-2709

 vCard

Jonathan J. Lam

