

A photograph of construction workers in white hard hats and high-visibility vests looking up at a modern building under construction. The building has a glass facade and is surrounded by other city buildings. The image is overlaid with a large, semi-transparent purple circle.

ASK OUR LAWYERS: EMPLOYMENT LAW & COVID-19

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LEGAL DISCLAIMER

- The presentation today is not intended as legal advice.
- Because this is a high level overview, it is impossible to cover all relevant details, and available rights and remedies will depend on the unique facts of each situation.
- For specific advice, please consult with your qualified legal counsel before making any decisions or taking any action.
- As you know, the situation is extremely fluid and is changing on a daily basis. As things evolve, your best course of action could also evolve. Follow up to date and reliable sources for your information. **This information is up to date as of April 23, 2020.**
- Every province and territory has its own legal regime; always consult your qualified legal counsel before implementing any measures or taking action in a particular province/territory.


YOUR PANELISTS



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TODAY'S AGENDA

Topics	Speaker
Canada Emergency Response Benefit (CERB) Canada Emergency Wage Subsidy (CEWS) Salary Reductions	Andrew Bratt <i>Toronto, ON</i>
Layoffs and Terminations Positive or Suspected COVID-19 Protocol Return to Work and Employee Refusals	Josée Gervais <i>Montréal, QC</i>
Temperature Screening/Wellness Checks Foreign Workers News Leaves of Absences and Changes to Employment Standards	Krista Schofer <i>Calgary, AB</i>

CANADA EMERGENCY RESPONSE BENEFIT (CERB)

- 1. Who is eligible for CERB and how does the program work?**
- 2. Can employers register a Supplemental Unemployment Benefit (SUB) Plan to top-up employees' CERB payments?**
- 3. Can you choose whether to apply for regular EI benefits as opposed to the CERB?**

LAYOFFS AND TERMINATIONS

- 1.** How to properly implement temporary layoffs and should an employer provide notice or pay severance?
- 2.** Do the rules of collective dismissal/mass termination apply to temporary layoffs?
- 3.** What is the risk of temporary layoffs being qualified as constructive dismissal?
- 4.** Can an employer decide not to recall all of its employees after a temporary layoff or use temporary layoffs to terminate poor performers?

TEMPERATURE SCREENING / WELLNESS CHECKS

- 1.** As an employer, can we do temperature screening and wellness checks of employees and/or visitors?
- 2.** What protocols do you recommend having in place and what questions can we ask?

CANADA EMERGENCY WAGE SUBSIDY (CEWS)

- 1.** How do you determine eligibility under the CEWS?
- 2.** How and when can we apply for CEWS?
- 3.** Are we required to hire back/recall employees in order to qualify for CEWS?

POSITIVE OR SUSPECTED COVID-19 CASE PROTOCOL

- 1. What are the best practices for COVID-19 protocols and what steps should the employer take if one of its employees contracts COVID-19?**
- 2. Should the employer advise other employees that they might have been in contact with COVID-19 in the workplace?**
- 3. When should an employee be allowed to come back to work after showing COVID-19 symptoms? Should a medical note be required?**

CONSIDERATIONS FOR FOREIGN WORKERS

- 1. Has the temporary foreign worker process changed?**
- 2. Are there any issues with laying off temporary foreign workers?**
- 3. Is a foreign worker with a valid work permit able to legally work with an expired SIN?**

SALARY AND/OR HOURS OF WORK REDUCTIONS

- 1. Can salary reductions be imposed unilaterally or should we be obtaining employee consent?**
- 2. If an employee can only do 50% of their work remotely do we need to pay them 100% of their salary?**
- 3. If we reduce the workweek to 4 days, can we mandate the use of accrued vacation to cover the 5th day to prevent any income loss?**

NEW LEAVES OF ABSENCES AND CHANGES TO EMPLOYMENT STANDARDS

1. What are the new job-protected leaves in Canada?

- Federal
- B.C.
- Alberta
- Ontario
- Quebec

RETURN TO WORK AND EMPLOYEE REFUSALS

- 1.** How should an employer react if some employees refuse to come back to work?
- 2.** Can an employer require employees to wear personal protective equipment in the workplace ?
- 3.** Can the employer implement remote working as an alternative to 'back-to-work' or can an employer require an employee to get back to work even if work can be done remotely?

OTHER QUESTIONS

- 1.** What can employers expect post COVID?
- 2.** Tips when communicating with your workforce?


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