SPECIAL MEASURES FOR EMPLOYERS INTRODUCED IN RESPONSE TO U.S. TARIFFS

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The federal government recently introduced special measures to the Work-Sharing Program to help mitigate the impact of U.S. tariffs on employers and employees.

Under the Work-Sharing Program, an employer and group of employees may enter into an agreement with Service Canada ("**Work-Sharing Agreement**"), through which employees receive income support through Employment Insurance (EI) benefits during a period where there is less work available for the employees because of factors beyond the employer's control. This differs from usual EI, where an employee must be entirely without income for at least seven days before claiming.

Under a Work-Sharing Agreement, employees agree to a reduced schedule of work and to share the available work equally over the term of the Work-Sharing Agreement. The employer is also obligated to have recovery measures in place to return employees back to regular work hours by the end of the Work-Sharing Agreement.

Typically, the duration of a Work-Sharing Agreement must be a minimum of six consecutive weeks, up to a maximum of 26 weeks. A further 12-week extension is available in some cases, for a total of 38 weeks.

Employers experiencing a temporary decrease in business activity because of the threat or realization of U.S. tariffs may be eligible for the Work-Sharing Program special measures ("**Special Measures**") if the employer:

- Has been operating in Canada for a minimum of one year, and
- Has a minimum of two EI eligible employees who agree to participate in a Work-Sharing Agreement.

The Special Measures enhance the Work-Sharing Program by providing longer benefits and expanded eligibility, including the following:

- The maximum Work-Sharing Agreement duration is extended to 76 weeks;
- The mandatory cooling-off period for employers after a Work-Sharing Agreement ends is waived;
- The utilization of work-sharing may exceed 60% of the hours that the employees would have worked;
- Employee eligibility is expanded to include employees who are not year-round, permanent, full-time, or part-time (including seasonal and cyclical employees), as well as employees assisting the employer in

recovery efforts; and

- Employer eligibility is expanded to include:
  - Non-profit and charitable organizations experiencing a reduction in revenue levels as a result of the tariffs,
  - Seasonal and cyclical employers, and
  - Employers experiencing a decrease in work activity over the past six months of less than 10%.

The Special Measures are effective until March 6, 2026.

Key Takeaways

Employers in affected industries should consider whether taking advantage of the Special Measures could help avoid temporary layoffs during this time of uncertainty. As discussed in our previous bulletin, temporary layoffs carry (potentially costly) legal risks that must be carefully considered by employers.

McMillan's Employment & Labour Relations and International Trade teams are available to help your business navigate the U.S. tariffs.

by Ricki-Lee Williams and Kyle Lambert

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.