

TEMPORARY LAYOFF AND CONSTRUCTIVE DISMISSAL RELIEF FOR ONTARIO EMPLOYERS EXTENDED TO 2021

Posted on September 8, 2020

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The Ontario government has updated its regulations under the *Employment Standards Act, 2000* (“ESA”) to [extend the province’s “COVID-19” period to January 2, 2021](#).

The extension into the new year means that the measures, introduced in [Regulation 228/20](#), to limit the risk of a temporary layoff or wage reduction turning into a permanent dismissal or being deemed a constructive dismissal under the ESA, will continue until the new year. Those measures had previously been set to expire on September 4, 2020 (six weeks after Ontario’s [state of emergency](#) ended).

[As McMillan advised in August](#), regulation 228/20 allows employers to temporarily reduce wages or hours for pandemic-related reasons without triggering a layoff or constructive dismissal under the ESA. Instead, affected employees are placed on deemed infectious disease emergency leave for the duration of the “COVID-19 period” – now extended to January 2, 2021.

Take away

The extension of the COVID-19 period provides further relief for employers that have been required to reduce wages or lay employees off because of the pandemic. While employers who currently have employees on layoff, or who have reduced hours or reduced pay, can continue with the status quo, employers should, nevertheless, remain mindful that the standard layoff periods under the ESA will take effect in January 2021. Employers should continue to evaluate whether they will be in a position to recall or reinstate the previous terms and conditions of employment at that time.

by Kyle Lambert and Chiedza Museredza

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.

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