



What's New in HR Law

Deemed Infectious Disease Emergency Leave Protections Extended to January 2, 2021

September 4, 2020

Late yesterday afternoon, September 3, 2020, the Ontario Government unexpectedly [announced](#) it is extending protection to prevent temporary layoffs from automatically becoming terminations.

While unclear from the initial media release, the Government's [website](#) has been updated today to suggest that this extended protection will come in the form of an amendment to the [Infectious Disease Emergency Leave Regulation](#) (Regulation) which was enacted under the *Employment Standards Act, 2000* (ESA) earlier this summer. Our update on the Regulation, as it was originally published, can be found [here](#).

The amended regulation has not yet been released. However, the Government's website describes that the definition of "COVID-19 Period" contained in the Regulation will be amended such that it will now run from March 1, 2020 to **January 2, 2021**.

Practically speaking, what this means is that any non-unionized employee who experiences a temporary reduction in hours or wages between March 1, 2020 and January 2, 2021 will be deemed to be on a job-protected Infectious Disease Emergency Leave (IDEL). During the

This update is for general discussion purposes and does not constitute legal advice or an opinion.

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extended COVID-19 Period, any such temporary reductions in hours or wages will not constitute a lay-off or a constructive dismissal under the ESA.

Effective January 3, 2021, the application of the regular ESA provisions and regulations governing temporary lay-offs and constructive dismissals will resume, and temporary reductions in hours or wages will no longer constitute a deemed IDEL.

Until this extension was announced late yesterday, it was expected that the deemed IDEL protections were only operative until today, September 4, 2020. As a result, many employers will have already issued either permanent or temporary lay-off notices to their workforce. In light of this new development, careful consideration should be given to whether any decisions relating to staffing should be revisited, or communications that may have already been issued should to be revised.

We will provide further updates as additional information becomes available and will identify if any of the above information changes once the amended Regulation has been published.

Need more information?

For more information regarding workplace management during the COVID-19 pandemic, or assistance determining how this regulatory amendment impacts your workplace, please contact any member of the FWTA legal team.



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