

## **Ontario's Declared Emergency Has Come to an End- What Does This Mean for Employers?**

July 31, 2020

On July 24, 2020, the *Reopening Ontario (A Flexible Response to COVID-19) Act, 2020* ("Bill 195") came into force and Ontario's declared emergency came to an end. This legislation impacts Ontario employers in two significant ways, each discussed below.

### **Temporary Layoff Under the Ontario *Employment Standards Act, 2000* ("ESA")**

As discussed in our earlier briefing note (found [here](#)), on May 29, 2020 the Government of Ontario introduced a regulation under the ESA to address the legal impact of a temporary reduction in hours of work and/or wages for COVID-19 related reasons.

Under the regulation, if a non-unionized employee is laid off or their hours and/or wages temporarily reduced for COVID-19-related reasons during the "COVID-19 Period" (defined below), the employee is not be considered laid off for the purpose of the termination and severance pay provisions of the ESA.<sup>1</sup> Similarly, in most cases, such a layoff or reduction does not constitute a constructive dismissal.

The regulation defines the "COVID-19 Period" as the period from March 1, 2020 until **six weeks after the declared emergency in Ontario is terminated or disallowed**. With the passage of Bill 195, **this six week period ends on September 4, 2020**.

*The result: any employee who remains off work after September 4, 2020 will be on a temporary layoff and entitled to termination and severance pay if the layoff exceeds the established timelines set out in the ESA.*

### **Work Deployment Orders Under the *Emergency Management and Civil Protection Act* ("EMCPA")**

Under Bill 195, most of the emergency orders issued under the *EMCPA* continue in force for 30 days as orders under this new legislation and may be extended further.

*The result: this includes any "work deployment" order enacted to provide a health care employer (hospital, retirement home, etc.) and various social service agencies the discretion to make staffing assignments as needed to prevent and respond to COVID-19, even if the assignments do not comply with an applicable collective agreement.*

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<sup>1</sup> Except if the employee is laid off due to a permanent discontinuance of an employer's business at an establishment, in which case the employee is entitled to severance pay under the ESA.

**For more information and assistance regarding Bill 195 , including your return to work plans, contact your Sherrard Kuzz LLP lawyer or any member of the Sherrard Kuzz LLP team at [info@sherrardkuzz.com](mailto:info@sherrardkuzz.com). We'll respond promptly.**

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