

**Ontario Government
Extends Temporary Layoff Exemption to July 3, 2021
-and-
Provides Additional Flexibility to Unionized Workplaces in the
Hospitality, Tourism and Convention and Trade Show Industries**

December 21, 2020

On December 17, 2020, the Government of Ontario issued a news release (found [here](#)) in which it made two announcements, each of which may significantly impact employers in the province.

Temporary Layoff Exemption Extended to July 3, 2021

On May 29, 2020, the Government of Ontario introduced a [regulation](#) under the *Employment Standards Act, 2000* (“ESA”) that provided relief to any employer that had temporarily laid off or reduced the wages and/or hours of a non-union employee, due to COVID-19. The regulation largely exempts any such layoff or reduction from being deemed a termination of employment, such that there is no obligation to provide ESA notice or severance pay. The employee is deemed to be on an **Infectious Disease Emergency Leave (“IDEL”)**.

If this regulation had not been passed, any such layoff or wage/hour reduction would have crystallized into a termination of employment, triggering ESA notice and severance pay obligations.

Initially, the regulation applied to a temporary layoff or reduction in wages and/or hours between March 1, 2020 and September 4, 2020 (the “COVID-19 Period”). The COVID-19 Period was then extended to January 2, 2021, and now [again to July 3, 2021](#). **The net result is that an employee who has been laid off or had their wages and/or hours reduced for COVID-19 related reasons can continue to be on an IDEL until July 3, 2021, without triggering termination and severance pay obligations under the ESA¹.**

New Regulation Provides Flexibility to Employers and Unions in Certain Industries

Under the [existing](#) language of the ESA, an employee with recall rights who has been laid off for a period of 35 weeks or more, can either elect to retain the right to recall or abandon that right. If the employee elects to retain the right to recall, termination and severance pay entitlements (if any) are

¹ Unless the employee is laid off due to a permanent discontinuance of business, in which case the employee is entitled to severance pay under the ESA.

held in trust. If the employee abandons the right to recall, termination and severance (if any) is to be paid out.

A new [special industry regulation](#) applicable to unionized employers in the hospitality, tourism and convention and trade show industries permits an employer and trade union to negotiate an alternate arrangement.

If a union and employer agree to apply the regulation:

- there is no obligation to hold termination and severance pay amounts in trust;
- a union may elect to retain recall rights for some or all of its employee members, and this election is binding on an employee (unless they had already elected to be paid out termination and severance pay entitlements); and
- if the union has elected to retain recall rights on behalf of an employee, the employee cannot renounce the right to be recalled prior to a date agreed to by the employer and union, and the union may not renounce the right to be recalled on the employee's behalf.

This regulation is in force until **December 17, 2021**, meaning an employer and union can reach an agreement of up to one year.

To learn more and for assistance, contact your Sherrard Kuzz lawyer or any member of our team at info@sherrardkuzz.com. We'll respond promptly.

*The information contained in this briefing note is provided for general information purposes only and does not constitute legal or other professional advice, nor does accessing this information create a lawyer-client relationship. This briefing note is current as of **December 21, 2020** and applies only to Ontario, Canada, or such other laws of Canada as expressly indicated. Information about the law is checked for legal accuracy as at the date the presentation/article is prepared, but may become outdated as laws or policies change. For clarification or for legal or other professional assistance please contact Sherrard Kuzz LLP.*



Sherrard Kuzz LLP, Employment & Labour Lawyers

Ontario Government Extends Exemption for Temporary Layoffs to July 3, 2021 and Provides Additional Flexibility to Unionized Workplaces in the Hospitality, Tourism and Convention and Trade Show Industries

Main 416.603.0700 / 24 Hour 416.420.0738 / www.sherrardkuzz.com