

Weathering Trump's Tariffs ~ Work-Sharing Special Measures for Canadian Businesses

March 13, 2025

In our March 7, 2025 Briefing Note, [*Trump's Tariffs Have Landed – How Can Canadian Employers Pivot?*](#), we promised to keep readers apprised of any special measures introduced under Service Canada's Work-Sharing Program ("Program").

U.S. Tariff special measures are now in effect **March 7, 2025 to March 6, 2026**. An employer may be eligible to participate in the Program under these special measures if it **experiences a decline in business activity attributable to the threat or realization of U.S. tariffs**.

In this Briefing Note, we explain the Program both **generally** (in the ordinary course), and under the **special measures now in place**.

The Work-Sharing Program – Generally

The Program is designed to help an employer avoid a layoff when there is a temporary decrease in the normal level of business activity beyond the control of the employer. Under the Program, an employer and its employees agree employees will work a temporarily reduced work week (*e.g.*, a 4 rather than 5-day work week). The Program then provides Employment Insurance benefits ("EI") to eligible employees whose income is reduced.

Example: An employee makes \$25/h and works 5 days a week for 8 hours a day. The employer implements a Work-Sharing Agreement and the employee works 4 days a week under the agreement.

- Normal Week: \$25 x 40 hours = **normal pay \$1,000**
- Work-Sharing Week (4 days of work): **\$800 of pay from the employer plus \$110 in EI**
- Employee's take home pay under work-sharing: **\$910** for four days worked.

The Work-Sharing Agreement ("Agreement") is made between the employer, a group of employees known as a "Work-Sharing Unit," and Service Canada. The "Work-Sharing Unit" should consist of all employees in a single job description or who perform similar work. An employer can enter an Agreement with multiple Work-Sharing Units.

Eligibility – Generally

Employer: To be eligible for the Program, an employer must:

- Be a year-round business operating in Canada for at least 2 years
- Have experienced a decrease in overall work activities of at least 10% in the last 6 months
- Have recovery measures in place to return to regular staffing levels and work hours by the end of the Agreement.

An employer is not eligible if it is experiencing reduced business activity due to a labour dispute, cyclical shortage of work or business decisions.

Employee: To be eligible for EI under the Program, an employee must:

- Be eligible to receive EI generally
- Be a year-round, permanent (full-time or part-time) employee needed to carry out the day-to-day functions of the business
- Agree to reduce their normal working hours as part of a Work-Sharing Unit and share the available work equally.

The following individuals are **not** eligible for the Program:

- Seasonal or casual employees
- Contracted temporary help agency workers
- Self-employed workers
- Employees considered essential to the recovery and viability of the business
 - *E.g.*, sales employees, technical employees engaged in product development, executive marketing agents, senior management responsible for recovery
- Those responsible for the direction of the company and who hold more than 40% of the voting shares in the business.

Work-Sharing Agreement Requirements – Generally

Under the Agreement, employees must agree to reduce their scheduled work by at least 10% and share the available work equally over the term of the Agreement. Even if an employee does not agree to participate in the Program, or is not eligible for EI, that employee must still have their hours reduced equally with the Work-Sharing Unit. In a unionized environment, the sharing of available work among the Work-Sharing Unit must be done regardless of any seniority clauses in a collective agreement.

The average reduction over the course of the Agreement should remain within the range of 10-60%. An Agreement must be 6-26 weeks with the possibility of an extension of up to 12 weeks, following which, the employer must participate in a cooling-off period (equal in time to the length of the Agreement) prior to entering into a new Agreement.

The Work-Sharing Program – U.S. Tariff Special Measures

Employer eligibility has been expanded to include a(n):

- Business operating in Canada for 1 year (as opposed to 2 years)
- Non-profit and/or charitable organization experiencing a reduction in revenue levels as a direct or indirect result of the tariffs
- Cyclical or seasonal employer
- Employer that has experienced a decrease in work activity of less than 10% during the past six months.

Employee eligibility has been expanded to include an:

- Employee who is not a year-round, permanent employee, *i.e.*, a seasonal/cyclical employee
- Employee assisting the employer's recovery efforts.

Additional flexibility includes:

- Increased maximum duration of an Agreement to up to 76 weeks
- Waived cooling-off period between successive Agreements
- Work-sharing may exceed 60%.

Employer Obligations During the Agreement – Generally AND under the U.S. Tariff Special Measures

The Program requires an employer to complete various documentation during an Agreement, including:

- **Enrolment Sheet:** Lists all employees participating in the Agreement, their Social Insurance Numbers and their normal weekly hours.
- **Utilization Report:** Tracks the percentage of reduction in work hours each week to enable Employment Insurance to determine the benefits payable to employees.
- **Adding, Deleting and Substituting Work-Sharing Unit Members:** An employer must notify Service Canada immediately if any Work-Sharing Unit member leaves the company, whether the employee quits, is laid off, dismissed or suspended, or leaves due to illness, injury, maternity or parental leave.
- **Approval for a Planned Shut-Down:** A planned shutdown cannot occur without first securing Service Canada approval or it may result in termination of the Agreement.

Other Government Supports Available for Canadian Businesses

In addition to the U.S. Tariff special measures, the Canadian Government has announced other supports for businesses including:

- Supports for exporters, to help them find new markets beyond the U.S.
- A \$500-million loan program through the Business Development Bank of Canada for businesses directly impacted by the tariffs.
- A \$1 billion increase in the Farm Credit Canada Program to support the agricultural sector.

Comparison of Work-Sharing Program Generally and under the U.S. Tariffs Special Measures

	General Program	U.S. Tariff Special Measures
Length of Agreement	<ul style="list-style-type: none"> • 6-26 weeks, with possible extension of up to 12 weeks • Mandatory cooling-off period between Agreements, equal to length of previous agreement 	<ul style="list-style-type: none"> • 6-76 weeks • No mandatory cooling-off period
Reduction	<ul style="list-style-type: none"> • 10-60% 	<ul style="list-style-type: none"> • Can exceed 60% reduction
Employer Eligibility	<ul style="list-style-type: none"> • Business operated in Canada for 2+ years • Must be a year-round employer • Many non-profit/charitable organizations excluded • Must experience 10% decrease in past 6 months 	<ul style="list-style-type: none"> • Business operated in Canada for 1+ years • Can include seasonal/cyclical employer • Expanded eligibility for non-profit/charitable organizations • Need not experience 10% decrease in past 6 months
Employee Eligibility	<ul style="list-style-type: none"> • Must be year-round permanent employee • Cannot be essential to the recovery of the business 	<ul style="list-style-type: none"> • Can include seasonal or cyclical employee • Can be essential to recovery of the business

To learn more about the Work-Sharing Program or for assistance, contact your Sherrard Kuzz LLP lawyer or info@sherrardkuzz.com

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