



## **COVID-19 and the Workplace: Rights, Obligations, and Supports**

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### **FOREWORD**

The rise of the novel coronavirus (“COVID-19”), the infectious disease which [prompted the World Health Organization to declare a pandemic on March 11, 2020](#), has led to global uncertainty. COVID-19 is now thought to have [spread to every continent except Antarctica](#), with the International Labour Organization estimating recently that [as many as 25 million jobs could be lost worldwide](#) as a result of the pandemic.

This disease is having a significant impact close to home, with cases rising in Canada and Ontario. Both governments have enacted measures to respond to the outbreak. The Canadian Government has announced a number of response measures through its [COVID-19 Economic Response Plan](#). On March 17, 2020, [Ontario declared a state of emergency](#) under s. 7.0.1 (1) of the [Emergency Management and Civil Protection Act](#): this emergency order [has since been extended to April 13, 2020](#). The Ontario Government has since [ordered all non-essential businesses to close](#) effective 11:59 pm on Tuesday, March 24, 2020 and on March 25, 2020, the Ontario Government announced a number of new economic measures in its economic and fiscal update [Ontario’s Action Plan 2020: Responding to COVID-19](#).

At KBA Partners LLP, we act for executives, employees, consultants, partners, shareholders, directors and officers at times of transition, opportunity, and crisis in their careers. We also act for employers seeking information, advice, and legal assistance. While you should contact a lawyer for legal advice tailored to your specific circumstances, the resources included are intended to provide general information relating to certain key topics concerning employees and employers in relation to COVID-19. We encourage you to [contact us](#) directly for more information or advice.

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## **COVID-19 and the Workplace: Rights, Obligations, and Supports**

### **1. Do individuals have the right to refuse work for reasons related to COVID-19?**

Individuals who fall under the scope of Part II of the [Canada Labour Code](#) (the “CLC”) may refuse to work in a work place, subject to certain exceptions, where the employee has reasonable cause to believe that a condition exists in the work place that constitutes a “danger” to the employee such as exposure to COVID-19. Upon refusing to work, the individual must report the circumstances grounding the refusal to the employer, which will trigger a defined process of investigation and, in certain cases, escalation to the Minister of Labour. More information on the right to refuse work under the CLC, and the process this will trigger, may be found [here](#).

Similarly, individuals subject to the Ontario [Occupational Health and Safety Act](#) (“OHS”) may refuse work in several circumstances, subject to certain exceptions, including where the physical condition of the workplace or the part thereof in which he or she works or is to work is likely to endanger himself or herself or where it is in contravention of OHS and is likely to endanger himself, herself, or another worker. As with the CLC, a worker refusing to work must promptly report the circumstances to their employer or supervisor, which will then trigger a duty to investigate and, if the issue is not resolved, escalation to the Ministry of Labour. More information on this process, and the right to refuse work under OHS, may be found [here](#).

While it is possible that there are circumstances under which the right to refuse work could apply either under the CLC or OHS out of a concern of contracting COVID-19 at work, individuals should be careful to avoid refusing work unreasonably. This is particularly the case where the employee’s workplace has been deemed an essential workplace and the employer has put reasonable safety precautions in place to reduce the risk of contracting COVID-19. In such cases, an employee could face disciplinary action if they refuse to return to work. However, given the significant public health concerns surrounding COVID-19, more leeway may be extended to employees who refuse work for concerns related to the virus. Employers should be careful to distinguish between employees claiming a job-protected leave where they may be entitled to stay at home for certain delineated reasons arising from the COVID-19 pandemic versus employees refusing to work unreasonably.

Each case must be assessed on its own circumstances and, if you are considering refusing work for reasons related to COVID-19, or if an individual in your workplace has refused work for this reason, we encourage you to contact a lawyer.

### **2. Can employers require self-reporting of COVID-19 diagnoses or exposure?**

Given the severity of the global pandemic, reasonable inquiries as to an employee’s or worker’s diagnosis, potential exposure to COVID-19, and recent travel history are generally being considered permissible.

This accords with employers’ obligations under the applicable health and safety legislation. Under both the CLC and OHS, employers are obligated to take certain steps to protect health and safety in the work environment. Employees and workers under both statutes, in turn, have a corollary obligation to alert the employer to workplace hazards in certain cases. The federal government has confirmed that, at least for employees subject to Part II of the CLC, this

requirement entails an obligation to inform the employer of potential exposure to COVID-19 that is likely to be hazardous to the health and safety of other employees.

As always, employers should aim to protect their employees' and workers' right to privacy to the maximum extent possible and seek only the information that the employer requires to respond appropriately and to protect health and safety in the work environment.

### **3. Can an employer send an individual home because they have been diagnosed with COVID-19 or have potentially been exposed to the virus?**

As noted above, under the CLC and OHSA, employers are obligated to take steps to protect the health and safety of employees and workers in the workplace, which, in appropriate cases, may include sending an individual home or requiring them to remain at home.

In Ontario, the Ontario Human Rights Commission ("OHRC") has acknowledged in its [official policy statement](#) on COVID-19 that the right to be free from discrimination must be weighed against the risks to health and safety and, in some cases, keeping an individual in the work place may constitute undue hardship.

While employers should act to protect the health and safety of its employees and workers, including sending individuals home where appropriate, the OHRC has cautioned that employers should not send someone home, or ask them to refrain from coming in to work, unless the employer's decision is aligned with official public health information.

The decision to send someone home for reasons relating to COVID-19 is fact-specific. Individuals sent home by an employer are encouraged to contact a lawyer to ensure that the employer has acted in accordance with their legislative and human rights obligations and, likewise, employers are encouraged to seek legal advice and prepare, in advance, workplace policies and procedures regarding how to handle cases or potential cases of COVID-19 in the workplace.

If an individual is required to stay home from work, employers should consider alternative options for how that individual may continue to perform work safely from home. Where remote work arrangements are not possible, or where the individual is unable to work, employers and individuals may also wish to consider the availability of paid leave under the circumstances or, alternatively, the individual may qualify for an unpaid, job-protected leave under the CLC or OHSA and may be able to claim certain benefits, as further canvassed below.

Notably on March 25, 2020, the Canadian Government [made an emergency order](#) under the [Quarantine Act](#) which requires individuals re-entering Canada from another country to self-isolate for 14 days, even if the individual is not displaying any symptoms of COVID-19.

### **4. What leaves are available to federally-regulated employees under the circumstances?**

Federally-regulated employees who are required to take time off for reasons related to COVID-19 may wish to use vacation days or paid sick leave credits in order to take time off with pay. The federal government has encouraged management to consider advancing sick leave credits under the circumstances and, in most cases, not to require a doctor's certificate: see the Government of Canada website [on this point](#).

As of March 25, 2020, the Government of Canada has made available a new unpaid, job-protected leave of up to sixteen (16) weeks where the employee is unable to work due to COVID-19. Examples of employees who may qualify for this leave include those who are:

- quarantined or asked to self-isolate as a result of COVID-19;
- required to provide care to a family member as a result of COVID-19; or
- otherwise unable to work for reasons related to COVID-19.

Employees wishing to take this leave must provide their employer with written notice as soon as possible of the leave, the reason for the leave, and the intended length of the leave, and notify the employer in writing as soon as possible of any changes to the length of the leave. This leave is temporarily available until October 1, 2020. For more information, click [here](#).

Various other job-protected leaves under the CLC may apply. The CLC provides for personal leave, medical leave, compassionate care leave, leave where an employee is a family member of a critically ill child or adult, and bereavement leave. Medical leave, compassionate care leave, and leave related to critical illness are unpaid; personal leave and bereavement leave may be paid depending on the employee's length of employment with the employer. More information on these leaves, and the circumstances under which they are available, may be found [here](#).

As of March 25, 2020 until September 30, 2020, the federal government has temporarily waived the requirement to provide a medical certificate for medical leave, compassionate care leave, or leave related to critical illness. For more information, click [here](#).

## 5. What leaves of absence are available to employees under the Ontario *Employment Standards Act, 2000*?

Employees who are required to take time off for reasons related to COVID-19 may wish to use vacation days or paid sick leave in order to take time off with pay. However, failing this, a number of unpaid, job-protected leaves may be available to Ontario employees under the Ontario [Employment Standards Act, 2000](#) (the "ESA").

On March 19, 2020, the Ontario Government passed [Bill 186 – Employment Standards Amendment Act \(Infectious Disease Emergencies\), 2020](#). As a result of this amendment, which supplemented the previous ESA "declared emergency leave", employees subject to the ESA now have potential access to two forms of unpaid, job-protected leaves directly related to the currently evolving COVID-19 situation, in addition to the regularly-available leaves under the ESA.

**(a) Leave for a Declared Emergency:** An employee is eligible for a leave for a declared emergency where the employee will not be performing the duties of his or her position because of an emergency declared under section 7.0.1 of the *Emergency Management and Civil Protection Act* (such an [order](#) was made by the Ontario Government on March 17, 2020 and [has since been extended to April 13, 2020](#)) and,

- (i) because of an order that applies to him or her made under [section 7.0.2](#) of the *Emergency Management and Civil Protection Act*;
- (ii) because of an order that applies to him or her made under the [Health Protection and Promotion Act](#),

- (iii) because he or she is needed to provide care or assistance to certain family members or other prescribed individuals (a full list of qualifying individuals is available at [section 50.1 \(8\) of the ESA](#)), or
- (iv) because of another prescribed reason.

**(b) Leave for Infectious Disease:** An employee may be eligible to take an unpaid, job-protected leave for one or more of the following reasons related to a designated infectious disease:

- (i) The employee is under individual medical investigation, supervision or treatment related to the designated infectious disease.
- (ii) The employee is acting in accordance with an order under section [22](#) or [35](#) of the *Health Protection and Promotion Act* that relates to the designated infectious disease.
- (iii) The employee is in quarantine or isolation or is subject to a control measure (which may include, but is not limited to, self-isolation), and the quarantine, isolation or control measure was implemented as a result of information or directions related to the designated infectious disease issued to the public, in whole or in part or to one or more individuals, by a public health official, a qualified health practitioner, Telehealth Ontario, the Government of Ontario, the Government of Canada, a municipal council or board of health, whether through print, electronic, broadcast or other means.
- (iv) The employee is under a direction given by his or her employer in response to a concern of the employer that the employee may expose other individuals in the workplace to the designated infectious disease.
- (v) The employee is providing care or support to certain family members or other individuals (a full list may be found at [section 50.1 \(8\) of the ESA](#)) because of a matter related to the designated infectious disease that concerns that individual, including, but not limited to, school or day care closures.
- (vi) The employee is directly affected by travel restrictions related to the designated infectious disease and, under the circumstances, cannot reasonably be expected to travel back to Ontario.
- (vii) Any other prescribed reason.

Under either of these leaves, the employee must advise their employer that they are taking leave beforehand or as soon as possible after beginning it. There is no minimum service requirement to be eligible for either of these leaves.

If the employee is taking Declared Emergency leave, the employer may require the employee to provide evidence reasonable in the circumstances, at a time that is reasonable in the circumstances, that the employee is entitled to the leave. The leave will last for as long as the employee is not performing the duties of their position because of the declared emergency and one of the above-mentioned reasons in paragraphs (a) (i) – (iv), above. The leave will end on the date the emergency is terminated or disallowed, or any extension thereof.

Where the employee is taking Infectious Disease leave, the employer may require the employee to provide evidence reasonable in the circumstances, at a time reasonable in the circumstances, but cannot require an employee to provide a certificate from a qualified health practitioner as evidence of their entitlement to the leave. Entitlement to the leave commenced January 25, 2020. The employee is entitled to the leave for as long as they are not performing the duties of their position because of one of the reasons outlined above and provided the infectious disease is designated by the regulations for the purposes of the leave ([COVID-19 is on the list](#)).

Other unpaid, job-protected leaves under the ESA may also be available to the employee, including family medical leave, family caregiver leave, leave related to the critical illness of an adult or child family member, bereavement leave or child death leave, and sick leave. These leaves are all unpaid and certain of the leaves are subject to the employee having worked for the employer for a certain period of time. For more information about these leaves, click [here](#).

## **6. Is an employer allowed to terminate an employee for reasons relating to COVID-19?**

An employer in a non-unionized work environment in Ontario is generally permitted at any time to dismiss an employee “without cause”, provided that the reason for such termination is not discriminatory or would not constitute reprisal. Accordingly, an employer is entitled to terminate the employment of employees for economic circumstances relating to COVID-19 provided the employer is not terminating the employee for a discriminatory reason (e.g. he or she has COVID-19) or because the employee has taken a job-protected leave (e.g. to care for a family member with COVID-19). Employers are further encouraged to avoid taking action which gives rise to the appearance of discrimination or reprisal.

In most cases, upon terminating an employee without cause, an employer remains liable to provide that employee with their legal entitlements on termination. If you are an employer and would like legal advice about a termination in the workplace, we encourage you to [contact us](#) or another lawyer before proceeding. If you are an employee who has been terminated as a result of COVID-19, we encourage you to [contact us](#) or another lawyer to determine your entitlements.

Note that special considerations apply in the context of mass terminations. If you are contemplating such a mass termination, it is recommended that you consult a lawyer.

## **7. Under what circumstances are employers allowed to lay employees off?**

Employers considering laying off employees for reasons relating to COVID-19 should tread carefully and seek legal advice before doing so. There is an intersecting web of different legal considerations which should be taken into account in laying off an employee.

Under the ESA, temporary lay-offs are not prohibited. The ESA allows for temporary layoffs for a period of not more than 13 weeks in any period of 20 consecutive weeks, or a period of up to 35 weeks in a period of 52 consecutive weeks under certain circumstances, and sets out certain rules regarding how these weeks are calculated. Employers must ensure that they abide by the time limits set out in the legislation: exceeding these time limits, even for a day, could mean the employee’s lay-off will be treated as a termination, effective from the first day of the lay-off, and the employer may be liable for termination pay and severance pay, as applicable. A reduction in employees’ hours, up to a certain point and over a certain duration, may also constitute a lay-off triggering similar obligations and liabilities. Note that special rules may apply for individuals who work variable hours or for a temporary work agency. Under the ESA, employers do not have to

provide written notice; do not have to specify a return to work date; and do not have to give reasons for the layoff. For more information on lay-offs under the ESA, see [here](#).

The above canvasses the lay-off provisions under the ESA, and not under the CLC. If you are an employee or an employee subject to the CLC, and have questions on this topic, we encourage you to [contact us](#) or another lawyer.

While a lay-off may be permitted by statute, the applicable collective agreement or an employee's contract is relevant in determining whether a lay-off of a particular employee is permitted. An employer may be liable where the employee does not have an employment contract which specifically permits temporary lay-offs. In such a case, laying off an employee may be considered "constructive dismissal": an action by the employer which, in essence, amounts to a termination of the employee's employment such that the employer may be liable for wrongful dismissal damages. It is unclear whether, given the severe public health and economic effects of the COVID-19 situation, courts will in future find that employees dismissed for reasons related to COVID-19 were constructively dismissed. If you are an employer contemplating laying off an employee, we encourage you to [contact us](#) or another lawyer for legal advice regarding whether the lay-off is permissible and whether an agreement, under certain circumstances, may be reached with an employee regarding a lay-off. If you are an employee who has been laid off, [contact us](#) or another lawyer regarding your legal entitlements under the circumstances.

Finally, if the employer lays off an employee related to a reason that is discriminatory or to reprise against an employee for taking a job-protected leave of absence, that employee may have legal recourse.

#### **8. Does the employer have to issue a record of employment if an employee stops working for reasons relating to COVID-19?**

The Government of Canada has confirmed that where an employee is no longer working as a direct result of COVID-19, the employer must issue a Record of Employment (ROE). For more information on the appropriate code to use, visit the Government of Canada's website [here](#) and see the heading "Employment Insurance – Record of Employment".

#### **9. Can an individual get WSIB benefits if they have been infected with COVID-19 through the course of their work-related duties and responsibilities?**

The Workplace Safety Insurance Board ("WSIB") has noted that claims for COVID-19 arising out of and in the course of the worker's employment may qualify for benefits. While each case is assessed on its own factual circumstances, the WSIB will consider whether:

1. The nature of the worker's employment created a risk of contracting the disease to which the public at large is not normally exposed; and
2. The WSIB is satisfied that the worker's COVID-19 condition has been confirmed.

The WSIB has indicated that it will weigh all of the evidence to determine whether the worker's COVID-19 diagnosis is work-related, such that their employment duties or requirements were a significant contributing factor in contracting the disease. More information from the WSIB on how it is responding to COVID-19, including a primer on how the WSIB will approach COVID-19-related claims, may be found [here](#).

## **10. Is an individual's diagnosis of COVID-19 and/or their need to stay home to care for a family member for reasons related to COVID-19 protected under the Ontario *Human Rights Code*?**

It is likely that an employee's diagnosis of COVID-19 will be considered a disability for the purposes of assessing their human rights entitlements and, accordingly, an employer should avoid discriminating against an individual on the basis that they have or may have COVID-19. In this regard, the OHRC's official position "is that the *Code* ground of disability is engaged in relation to COVID-19 as it covers medical conditions or perceived medical conditions that carry significant social stigma". Click [here](#) to read more.

Likewise, an employer cannot discriminate against an individual on the basis that he or she is unable to attend work due to family obligations or family care-giving responsibilities, as this may engage the protected human rights ground of "family status". The OHRC has noted that "[a]n employee who has care-giving responsibilities should be accommodated to the point of undue hardship, which might include staying home".

Notably, employees who stay home for reasons related to COVID-19 may fall under a protected leave under the CLC or the ESA. While an employee is on such a leave, the employer cannot terminate the employee's employment simply by virtue of the fact that they took such a leave. However, the duty to accommodate may extend even beyond the length of such job-protected leave, or where such leave does not apply, and employers in such cases should consider all measures up to the point of undue hardship to accommodate the individual.

## **11. What employment insurance benefits are available to employees?**

### **(i) The Canada Emergency Response Benefit**

On March 25, 2020, the Canadian Government announced the new Canada Emergency Response Benefit ("CERB"). The CERB is a taxable benefit pursuant to which the Government of Canada will provide \$2,000.00 a month for up to four months for workers who lost their income due to COVID-19, regardless of whether the person would generally be eligible for EI. The CERB combines the prior Emergency Care Benefit and Emergency Support Benefit announced by the Canadian Government.

The Canadian Government has advised that the CERB will apply to workers:

- Residing in Canada, who are at least 15 years old;
- Who have stopped working because of COVID-19 or are eligible for Employment Insurance regular or sickness benefits;
- Who had income of at least \$5,000 in 2019 or in the 12 months prior to the date of their application, from any of the following sources: employment, self-employment, maternity and parental benefits under the EI program, or similar benefits paid in Quebec under the Quebec Parental Insurance Plan; and
- Who are or expect to be without employment or self-employment income for at least 14 consecutive days in the initial four-week period and for subsequent benefit periods expect to have no employment income.

The Government has further advised that the benefit only applies to individuals who stopped work as a result of COVID-19 and not for individuals looking for work who are unable to find a job.

Each application is for a single payment for one 4 week period. If the individual's situation continues they may apply for additional 4 week periods, up to a maximum of 16 weeks.

Individuals who became eligible for EI benefits (regular or sickness) *before* March 15<sup>th</sup> will have their claims processed under the pre-existing EI rules. However, individuals who became eligible thereafter and apply for EI benefits (regular or sickness) will have their claims automatically processed through CERB.

If individuals' EI benefits cease prior to October 3, 2020, they could apply for CERB at that time if they remain unable to return to work due to COVID-19. Individuals who qualify for both CERB and EI can still access their EI benefits if still unemployed following the CERB coverage period.

For more information regarding CERB, see [here](#). Applications will be accepted starting April 6, 2020; the CRA has set up specific days of the week on which individuals should apply according to the month of their birth. CERB payments will commence within 10 days of application and are payable every four weeks, available for the period from March 15, 2020 to October 3, 2020.

(ii) *EI Sickness Benefits*

As noted, individuals who became eligible for EI benefits (regular or sickness) *before* March 15<sup>th</sup> will have their claims processed under the pre-existing EI rules. However, individuals who became eligible thereafter will have their claims automatically processed through CERB. Individuals who qualify for both CERB and EI can still access their EI benefits if still unemployed following the CERB coverage period.

Employees who are eligible for EI sickness benefits may receive up to fifteen (15) weeks income replacement, being 55% of the employee's eligible earnings up to a maximum of \$573 per week. To qualify, the individual must be unable to work for medical reasons; their regular weekly earnings from work must have decreased by more than 40% for one week; and the individual must have accumulated 600 insured hours of work in the 52 weeks before the start of the individual's claim or since the start of the individual's last claim, whichever is shorter. More information on the application process, eligibility requirements, and entitlements is available [here](#).

The Government of Canada has advised that the one-week waiting period for EI sickness benefits will be waived for new claimants who are quarantined and that individuals claiming EI sickness benefits due to quarantine won't have to provide a medical certificate. Individuals unable to complete the application process due to the quarantine may apply later and have their EI claim backdated. For more information on how EI sickness benefits apply in the context of COVID-19, visit the Canadian Government site [here](#).

(iii) *EI Regular Benefits*

As noted, individuals who became eligible for EI benefits (regular or sickness) *before* March 15<sup>th</sup> will have their claims processed under the pre-existing EI rules. However, individuals who became eligible thereafter will have their claims automatically processed through CERB. Individuals who qualify for both CERB and EI can still access their EI benefits if still unemployed following the CERB coverage period.

Individuals may be eligible for EI regular benefits where the individual was:

- Employed in insurable employment;
- Lost their job through no fault of their own;
- Have been without work and without pay for at least 7 consecutive days in the past 52 weeks;
- Have worked for the required number of insurable employment hours in the last 52 weeks or since the start of the last EI claim, whichever is shorter;
- Are ready, willing, and capable of working each day; and
- Are actively looking for work.

For most people, the basic rate is 55% of average insurable earnings, up to a maximum of \$573 per week, and most individuals can receive EI from a period ranging from 14 weeks up to a maximum of 45 weeks: the length of the benefits will depend on the unemployment rate in the individual's region at the time they file their claim and the amount of insurable hours the individual accumulated in the last 52 weeks or since their last claim, whichever is shorter.

For more information on EI regular benefits, visit the Canadian Government's website [here](#).

## 12. What businesses are required to close in Ontario?

On March 23, 2020, the Ontario Government ordered the mandatory closure of all non-essential workplaces effective March 24, 2020 at 11:59 pm. A list of what the Ontario Government has currently deemed "essential businesses" may be found [here](#). Businesses which are categorized as non-essential may continue if employees are working remotely. See the Ontario Government's announcement regarding the mandatory closures [here](#).

The Ontario Government has established a toll-free line, available Monday to Sunday from 8:30 am to 5:00 pm. Employers are encouraged to contact Stop the Spread Business Information Line at 1-888-444-3659 for questions they may have relating to the emergency closure order.

## 13. What measures should employers be putting in place to create a safe work environment despite COVID-19?

There are a number of measures that employers can put in place to aim to create a safe work environment and to prepare for the economic effects of COVID-19. Though the situation is evolving rapidly, measures that employers can take involve the following:

- 1) **Stay informed:** Employers should stay apprised of the latest recommendations and requirements from official sources, and implement these measures as appropriate.
- 2) **Consider alternative forms of work:** Employers should consider the possibility of employees working remotely or working staggered hours to reduce physical proximity. Where employees are working from home, employers should ensure that employees have the proper equipment and that expectations (e.g. regarding hours worked) are clear.
- 3) **Encourage good hygiene and physical distancing:** Where employees must attend work, employers are encouraged to consult public health resources regarding measures

to minimize the spread of the virus, which may include encouraging employees to adhere to public health guidelines regarding hygiene and personal protective equipment; ensuring soap and other sanitation supplies are well-stocked in the workplace; sanitizing the workplace regularly; staggering breaks and limiting meetings and events; and limiting visitors and extraneous individuals in the workplace to the extent possible.

- 4) **Require employees to self-report and self-isolate:** Employers may require employees to report their diagnosis of COVID-19 or their potential exposure to the virus. As appropriate, employees may be asked to stay home where their presence at work would be hazardous to other employees. Employees should encourage employees to voluntarily report by avoiding any appearance of discipline for doing so and by informing employees of their rights and by respecting those rights, including any right to job-protected leave.
- 5) **Create a plan for how to respond if an individual in the workplace tests positive or is showing symptoms of COVID-19:** Employers should plan in advance how they will respond to such circumstances, which may include safely and appropriately removing the individual from the workplace. The employer should inform other employees who may have been exposed to the individual of the risk of exposure, but should protect to the maximum extent possible the individual's identity and personal information.
- 6) **Review company policies:** Employers should review the applicable company policies, including sick leave policies, and be prepared to answer questions by employees and to determine if such policies require updating. Employees may wish to offer additional paid sick leave to employees, but if so, should ensure all employees are treated equally.
- 7) **Be prepared for business changes:** To the extent possible, employers should work with their legal and other financial advisors and aim to prepare for changes to supply and demand by having in place contingency and response plans.
- 8) **Communicate:** In a time of fear and uncertainty, clear and consistent communication by the employer with workers is critical. Employers should be clear about their policies, expectations, and supports available to individuals in the workplace.

A number of resources are available online for businesses aiming to prepare for and mitigate the effects of COVID-19. For example, see the primer for businesses prepared by [Toronto Public Health](#).

#### 14. What is a Supplemental Unemployment Benefit Plan?

Employers may be able to supplement, or “top up”, workers’ EI benefits to better support workers who are no longer working because of COVID-19. Supplemental Unemployment Benefit Plans (“SUBs”) top up EI benefits during a period of unemployment due to (i) temporary stoppage of work; (ii) training; or (iii) illness, injury, or quarantine. Employers must register their SUB program with the Canadian Government. SUB plans must meet a number of requirements. More information on creating a SUB plan, and the requirements to do so, may be found [here](#).

#### 15. What is a Work-Sharing Program?

A Work-Sharing Program is a program “designed to help employers and employees avoid layoffs when there is a temporary reduction in the normal level of business activity that is beyond the

control of the employer” and which “provides income support to employees eligible for Employment Insurance benefits who work a temporarily reduced work week while their employer recovers”. For more information about Work-Sharing agreements, including eligibility requirements, waiting periods, and mandatory elements of the Work-Sharing program, click [here](#). An application guide may be found [here](#).

The Canadian Government has announced a number of changes to the Work-Sharing program in light of COVID-19. For more information, see [here](#).

## **16. What supports are in place for businesses/employers?**

Both the Canadian Government and the Ontario Government have announced a number of measures aimed at supporting Ontario businesses. These measures are constantly changing. Employers are encouraged to visit the websites of the [Government of Canada](#) and [the Government of Ontario](#) for the most recent information on these measures.

*This document provides general information and updates only and is not intended to provide legal advice or to form a solicitor-client relationship. If you have questions about your legal rights, obligations, or options, you are encouraged to contact [our team of lawyers](#) to learn more. The lawyers at KBA Partners LLP are fierce advocates and trusted advisors who are available to assist you every step of the way during this COVID-19 crisis.*

*Please note that this situation is constantly evolving. Continue to check the websites of the [Government of Ontario](#) and the [Government of Canada](#) for more information and for the latest news regarding the COVID-19 situation and governmental responses.*