

New Ontario legislation provides employment-protected leave due to declared emergencies or infectious disease emergencies

Retroactively effective January 25, 2020 new legislation provides employment-protected leave without pay for an indefinite duration for declared emergencies and infectious disease emergencies. Such emergency leaves apply to most employees who are in isolation or quarantine due to COVID-19, and to employees who are away from work to care for their children at home due to COVID-19 related school or day-care closures, or to care for other relatives. The provisions of the legislation do not apply to workers in sectors that fall under federal jurisdiction. The provisions of the new legislation apply regardless of whether the employee is full-time, part-time, on a temporary agency assignment, student, or casual worker.

On March 17, 2020 the Government of Ontario declared an emergency due to COVID-19, inter alia closing schools, day-cares, and other businesses.

Businesses directly affected by Ontario's Emergency Declaration

On March 17, 2020 the Government of Ontario declared an emergency due to COVID-19 under s 7.0.1 (1) the Emergency Management and Civil Protection Act. As a result of this declaration and its associated orders, the following establishments became legally required to close business:

- All facilities providing indoor recreational programs;
- All public libraries;
- All private schools as defined in the Education Act;
- All licensed child care centres;
- All bars and restaurants, except to the extent that such facilities provide takeout food and delivery;
- All theatres including those offering live performances of music, dance, and other art forms, as well as cinemas that show movies; and
- Concert venues.

The concept of “relatives”

Under the provisions of the new legislation employees working in non-federally regulated sectors who are in isolation or quarantine due to COVID-19, and to employees who are away from work to care for their children at home due to COVID-19 related school or day-care closures, or to care for any of the following relatives:

- The employee's spouse.
- A parent, step-parent, or foster parent of the employee or the employee's spouse.
- A child, step-child, or foster child of the employee or the employee's spouse.

- A child who is under legal guardianship of the employee or the employee's spouse.
 - A brother, step-brother, sister, or step-sister of the employee.
 - A grandparent, step-grandparent, grandchild, or step-grandchild of the employee or the employee's spouse.
 - A brother-in-law, step-brother-in-law, sister-in-law, or step-sister-in-law of the employee.
 - A son-in-law or daughter-in-law of the employee or the employee's spouse.
 - An uncle or aunt of the employee or the employee's spouse.
 - A nephew or niece of the employee or the employee's spouse.
 - The spouse of the employee's grandchild, uncle, aunt, nephew, or niece.
 - A person who considers the employee to be like a family member, provided the prescribed conditions, if any, are met.
 - Any individual deemed a family member for the purposes of this section.
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