



Employees in the Time of COVID-19: A Primer for Business Owners and Managers



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By Joshua Ungar

In this challenging time, business owners and managers are faced with difficult decisions as they navigate an unprecedented public health crisis. With public health recommendations and the situation on the ground evolving at a rapid pace, it can be challenging to separate facts from fiction and to determine an appropriate response. Perhaps nowhere is this process more evident or vital than with respect to the lifeblood of your various organizations – your employees.

As business owners dealing with a range of issues including varying levels of demand from customers, indefinite business closures and the need to protect the health of your employees, it is clear that there is no “one size fits all” approach. That being said, there are several key points that would be prudent to consider and discuss with your management team and professional advisors in order to ensure you are making the best decisions for your organization and its employees. While this is by no means an exhaustive list, some of the key things to consider include:

- **Layoffs vs termination:** If your business is of the nature that a closure is required or there is not enough work to keep your employees engaged, there are various strategies that can be implemented to assist you and your employees. Some considerations include:
 - o Reassignment of employee duties with consent;
 - o Working with employees to use banked overtime or vacation time;
 - o Temporary leave for employees by consent, either unpaid or with reduced pay;
 - o Layoffs pursuant to a Collective Bargaining Agreement (if applicable); or
 - o Relying on the temporary layoff provisions in the *Employment Standards Code* – note that according to the legislation, if a temporary layoff continues for more than 60 days it is considered a termination. This has been extended by the Province to 120 days in light of the COVID-19 situation, however. There is an ability to agree with an employee to extend this period in certain circumstances, however this is fact-specific and should be discussed with your legal advisors in more detail; and
- **Accommodation:** It is important to accommodate your employees if they are sick, required to quarantine or are caring for others who are sick. In addition to the normal legislative requirements, the Province has implemented job-protected leave for employees caring for children affected by school and daycare closures or caring for sick or quarantined family members. Employees are also entitled to job-protected leave if they are required to self-isolate. In addition to the above, it is important for employers to be aware of the terms of their particular contracts with employees, including in relation to sick or medical leave. Finally, the Province has also eased the notice requirements on employers changing shifts for employees.

In conclusion, this is a difficult time for both employers and employees alike. With the correct foresight and planning, however, business owners and managers can work to mitigate their losses and keep their employees safe. With a diverse roster of business and employment lawyers, Brownlee LLP remains ready and able to assist you and your business through this challenging time.



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Questions?

If you have any further questions about this bulletin or other matters, we invite you to reach out to one of the members of the [Brownlee LLP Corporate Practice Area](#) to discuss.

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