

## **COVID-19 FAQ Sheet for Employers**

---

Updated March 26, 2020

This is an unprecedented situation, likely there will be given additional leeway, however we cannot guess what that will be, so we are providing recommendations based on past and current situations.

<b>What are my responsibilities and rights as an employer?</b>	1
<b>I have employees with kids who cannot come to work, what are my options?</b>	1
<b>What are my options when seeing a slowdown in my business?</b>	1
<b>Work sharing agreement</b>	1
<b>Can i reduce pay or work hours?</b>	3
<b>Can I layoff my employees?</b>	3
<b>What are the extra measures for effected employers &amp; employees?</b>	4
<b>Emergency isolation support</b>	6
<b>My employee is pregnant, what are our options?</b>	7
<b>Terminations</b>	7
<b>What will employees be paid on Employment Insurance?</b>	8
<b>What is the 14-day sick leave?</b>	8
<b>What is sickness leave?</b>	9
<b>Do I need to pay my employees additional hazard pay?</b>	9
<b>How do I impose social distancing?</b>	9
<b>Will contractors who don't have care for their children have a way to be compensated for lost wages? Are there any options for business owners who cannot apply for EI?</b>	9
<b>What are other measures?</b>	9

## WHAT ARE MY RESPONSIBILITIES AND RIGHTS AS AN EMPLOYER?

There is a general duty on all employers to take all reasonable precautions to prevent harm to employees in the workplace. You should have a policy and a plan to protect your employees and your company. See the template policy that is uploaded to our website [HERE](#). Employers should have a detailed plan in place to deal with this pandemic and specific protocols, including providing personal protective equipment for workers and the necessary training to use and dispose of that equipment. The approach must be proactive and focus on the protection of the worker.

Under occupational health and safety legislation, employees have the right to refuse unsafe work. If your employee indicates he or she feels they are unsafe to work, they have a right to not report to work. Your only choice at this point is to accept the refusal to work. An investigation is usually the next step, which we see as difficult. See [OH&S Respiratory viruses and the workplace](#).

You do not need to pay employees if they cannot work. You have options, see below.

## I HAVE EMPLOYEES WITH KIDS WHO CANNOT COME TO WORK, WHAT ARE MY OPTIONS?

You have a few options:

1. Inform employees that you will pay vacation, sick, flex, and banked time for as long as those benefits cover.
2. Offer work from home, job share, online meetings, etc. if that works for your industry. Flexibility like early or evening shifts are solutions to this difficult situation.
3. Government of Canada Work share program (see details below in Work Share)
4. Layoff (see details below in Layoffs)
5. Terminations (see details below in Terminations)

## WHAT ARE MY OPTIONS WHEN SEEING A SLOWDOWN IN MY BUSINESS?

Overall your options are:

- 1. Start with paying out time:** such as vacation, sick, flex, and banked time to cover the time you do not need the employee to work.
- 2. Reduce hours/work share:** you can reduce the wage or the hours of employees with notice. The notice is dependent on their longevity of employment. There is an official work sharing program which allow them to collect EI while work sharing (see below).
- 3. Layoff:** (see below) employees can apply for EI.
- 4. Terminate:** employees can try to apply for EI.

## WORK SHARING AGREEMENT

Changes were announced March 11, 2020. [Work-Sharing](#) (WS) is an adjustment 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. The measure provides income support to employees eligible for Employment Insurance benefits who work a temporarily reduced work week while their employer recovers.

WS is a three-party agreement involving employers, employees and Service Canada. Employees on a WS agreement must agree to a reduced schedule of work and to share the available work over a specified period. The number of employees in the work share is not limited. The length of this agreement can be up to 76 weeks.

### **Employers**

To be eligible for a WS agreement, your business must:

- be experiencing a recent decline in business activity of at least 10%
  - be experiencing a recent decline in business activity **directly or indirectly** related to the impact of COVID-19, the downturn in the forestry and steel and aluminum sectors demonstrate that the shortage of work is temporary, beyond your control and not a cyclical/recurring slowdown
  - demonstrate that the shortage of work is temporary, beyond your control and not a cyclical/recurring slowdown
  - be a year-round business in Canada for at least two years
  - be a private business, a publicly held company or a not-for-profit organization
- have at least two employees in the [WS unit](#)
- be willing to implement a recovery plan to support the on-going operations and viability of the business

Employees being proposed for a Work-Sharing agreement must:

- be "core employees" (i.e. year-round permanent full-time or part-time employees who are required to carry out the everyday functions of normal business activity);
- be eligible to receive Employment Insurance benefits; and,
- agree to a reduction of their normal working hours in order to share the available work.

### **Detailed Information from specific questions asked by clients:**

- Although members of the Work-Sharing unit must qualify to receive Employment Insurance benefits, eligibility cannot normally be determined until after members have actually filed for benefits. Therefore, all members of a Work-Sharing unit are considered eligible for benefits unless they are told otherwise by an Employment Insurance official. Employees are not required to inform their employer of the status of their eligibility for Employment Insurance benefits.
- Temporary (i.e. term or contract) employees are only eligible if they are not employed on a seasonal basis and if they have maintained hours similar to permanent full-time or part-time employees within the last 12 months.
- **Core employees who were laid off prior to the agreement start date are eligible to participate.**
- A minimum of two employees is required for a Work-Sharing agreement.
- The Work-Sharing unit should not include employees who are needed to help generate work and/or employees who are essential to the recovery of the business (e.g. senior management, executive level marketing/sales agents, outside sales representatives' technical employees engaged in product development, etc.). These individuals should be working full-time in support of the company's recovery plan. Other supervisors and managers are eligible to participate and may be included in the Work-Sharing unit (as long as they are not determining the direction of the company).
- **What will they be paid?** Work-Sharing benefits are paid based on employees' loss of normal hours of work **Work-Sharing benefits are also based on the regular weekly Employment Insurance benefit rate**, as calculated at the start of the Work-Sharing agreement

**Details here:**

[https://www.canada.ca/content/dam/canada/employment-social-development/migration/documents/assets/portfolio/docs/en/work\\_sharing/Work\\_sharing\\_applicant\\_guide.pdf](https://www.canada.ca/content/dam/canada/employment-social-development/migration/documents/assets/portfolio/docs/en/work_sharing/Work_sharing_applicant_guide.pdf)

**Apply online at:**

<https://www.canada.ca/en/employment-social-development/services/work-sharing/guide-applicant.html>

**CAN I REDUCE PAY OR WORK HOURS?**

If you intend to reduce any form of pay (including overtime, vacation, or general holiday pay), you must notify the affected employees before the start of the pay period when the reduction will take effect. You cannot reduce the rates below the minimum required by the legislated standards (aka minimum wage).

Be careful of **constructive dismissal**. Constructive dismissal happens when changes to pay, benefits, job duties, expectations, or titles mean that they no longer resemble to original contract or the role the employee was hired to do. This situation is considered a dismissal in the eyes of the courts. Seek legal consultation.

**CAN I LAYOFF MY EMPLOYEES?**

If you're expecting or seeing significant decrease in business, you can institute layoffs. You do not need to layoff all employees. The list below indicates those categories that qualify for layoffs (use Code A in your ROE):

- a. end of contract or season
- b. end of casual/part-time work
- c. end of school year
- d. temporary shutdown of operations
- e. permanent shutdown of operations
- g. position eliminated/redundant
- g. company restructuring
- h. employer bankruptcy or receivership

- Interruption of earnings: when an employee has had or is anticipated to have **seven consecutive calendar days** with no work and no insurable earnings from the employer, an interruption of earnings occurs. This situation is called the **seven-day rule**. For example, the seven-day rule applies when employees quit their jobs or are laid off, or when their employment is terminated (see exceptions in the table below). When the seven-day rule applies, the first day of the interruption of earnings is considered the last day for which paid. When an employee's **salary falls below 60% of regular weekly earnings** because of illness, injury, quarantine, pregnancy, the need to care for a newborn or a child placed for the purposes of adoption or the need to provide care or support to a family member who is critically ill, an interruption of earnings occurs.

- When a layoff occurs, employers must issue a [Record of Employment \(ROE\)](#) to each former employee. Generally, if you are issuing an *ROE electronically*, you have **five calendar days after the end of the pay period** in which an employee's interruption of earnings occurs to issue it. If you are issuing a *paper ROE*, you have to issue it within five calendar days of the employee's interruption of earnings or the date you become aware of the interruption of earnings. However, special rules may apply.
- Be aware that if you do not call back to work from layoff, that termination pay (pay in lieu of notice) is due at that time. You do not need to pay out all the earnings immediately and can pay on the next regularly scheduled pay day.
- If you employ in the Construction industry, you do not pay termination or pay in lieu of notice, so you could just issue terminations instead, if preferred.

The employer must give the employee notice of temporary layoff. To be valid, the notice must:

1. be in writing (\*download a free editable layoff letter template [HERE](#))
2. state that it's a temporary layoff notice and its effective date
3. include sections 62-64 of the Code (<http://www.qp.alberta.ca/documents/Acts/E09.pdf>)

The following notice must be provided unless there is a collective agreement that states otherwise, or there are unforeseeable circumstances. This is unforeseeable circumstances, so notice is likely not required. Provide as much working notice as you feel you can:

1. at least one week prior to the date layoff begins if the employee has been employed by the employer for less than 2 years
2. at least 2 weeks prior to the date layoff begins if the employee has been employed by the employer for 2 or more years

## WHAT ARE THE EXTRA MEASURES FOR AFFECTED EMPLOYERS & EMPLOYEES?

Announced on **March 25, 2020** additional supports to Canadians effected by COVID-19 and subsequent closures are below:

### CANADA EMERGENCY RESPONSE BENEFIT (CERB)

The government has proposed legislation to establish the [Canada Emergency Response Benefit](#) (CERB). This taxable benefit will provide \$2,000 a month for up to four months for workers who lose their income as a result of the COVID-19 pandemic. All Canadians who have ceased working due to COVID-19, whether they are EI-eligible or not, would be able to receive the CERB.

The CERB will cover:

- Canadians who have lost their job,
- are sick, quarantined, or taking care of someone who is sick with COVID-19,
- as well as working parents who must stay home without pay to care for children who are sick or at home because of school and daycare closures.

The CERB applies to:

- wage earners
- contract workers
- self-employed individuals who would not otherwise be eligible for Employment Insurance (EI).
- workers who are still employed, but are not receiving income because of disruptions to their work situation due to COVID-19

Canadians who are already receiving EI regular and sickness benefits as of today would continue to receive their benefits and should not apply to the CERB. If their EI benefits end before October 3, 2020, they could apply for the CERB once their EI benefits cease, if they are unable to return to work due to COVID-19. Canadians who have already applied for EI and whose application has not yet been processed would not need to reapply. Canadians who are eligible for EI regular and sickness benefits would still be able to access their normal EI benefits, if still unemployed, after the 16-week period covered by the CERB.

The portal for accessing the CERB will be available in early April. EI eligible Canadians who have lost their job can continue to apply for EI [here](#), as can Canadians applying for other EI benefits.

Canadians will begin to receive their CERB payments within 10 days of application. The CERB will be paid every four weeks and be available from March 15, 2020 until October 3, 2020.

Information on additional financial assistance can be found under [Support for Business](#).

### **Small Business Wage Subsidy**

The subsidy is equal to 10% of the remuneration you pay between March 18, 2020, and June 20, 2020, up to \$1,375 per employee and to a maximum of \$25,000 total per employer. Through reduced remittances

<b>Maximum amount 10% Subsidy calculation</b>	
<b>Monthly wage</b>	\$4,583.3
<b>3 months wage</b>	\$13,750.0
<b>3 months 10% max</b>	\$1,375.0

Time is based on when the cheque was paid to the employee. Therefore, all wages paid after March 18 and June 19 will qualify for the subsidy. So, employers who haven't maxed out their benefit, might want to pay early wages in June to ensure they get the full benefit.

### **Entities that now qualify:**

- Sole proprietors (employees that they pay, but not the sole proprietor since there is no wage paid to them).
- CCPC who are eligible for the small business limit- passive investment rule grind to the small business limit does not restrict you from claiming the wage subsidy. The \$15 million of taxable capital grind however will limit ability to claim the wage subsidy.
- Partnerships - All the members have to be CCPC that can get the small business limit,

individuals, or another partnership

- Non-profits
- Registered charities

The \$25,000 can be claimed by each entity above. If there were three associated companies, they each get the \$25,000 max benefit.

The benefit is 10% of the wages paid in the pay period. The benefit is capped at \$1,375 per employee and \$25,000 per employer whichever is less. The 10% amount that can be claimed must come from income tax withholding taken from the employee. You can't take the subsidy from any CPP or EI withholding amounts.

The business must employ an eligible employee which is defined as any individual employed in Canada.

The employer just holds back the 10% from their normal remittance to CRA each reporting period up to the maximums allowed.

**Details here:**

<https://www.canada.ca/en/revenue-agency/campaigns/covid-19-update/frequently-asked-questions-wage-subsidy-small-businesses.html#h1>

## EMERGENCY ISOLATION SUPPORT

Eligible working Albertans can receive a one-time emergency isolation support payment of \$1,146 if they are required to self-isolate or are the sole caregiver of someone in self-isolation and they have no other source of pay or compensation.

This is a temporary program to bridge the gap until the [Federal Emergency Care Benefit](#) is available in April.

If you are eligible for [federal Employment Insurance benefits](#), you are strongly encouraged to apply immediately.

### Eligibility

You **are** eligible for the emergency isolation support program if you:

Have experienced total or significant loss of income and are not receiving compensation from any other source because you:

- (a) have been diagnosed with COVID-19
- (b) have been directed by health authorities to self-isolate
- (c) are the sole caregiver of a dependent who is in self-isolation

You **are not** eligible for this program if you:

1. were not working immediately before you were advised to self-isolate
2. can work from home
3. are not experiencing a significant loss of income as a result of self-isolation
4. are currently collecting other forms of income support or employer benefits while self-isolated, such as:

- (a) workplace sick leave benefits
- (b) [federal employment insurance \(EI\) benefits](#)

- (c) are staying home to care for a dependent who is home for a reason other than self-isolation
- (d) reside outside of Alberta

If you are not eligible for this program, [other supports are available](#).

### How to apply

Sign into the [MyAlberta](#) Emergency Isolation Support system using your verified MyAlberta Digital ID (MADI) account to complete the application.

If you don't have a verified MADI account, you can sign up during the application process using your Alberta driver's license or ID card number to confirm your identity.

You do not need to wait 10 days for the mailed verification code to complete your application.

## MY EMPLOYEE IS PREGNANT, WHAT ARE OUR OPTIONS?

Some doctors are recommending that the pregnant woman go on medical leave and then go on maternity leave after. If the employee is 13 weeks from the estimated due date, she can start maternity leave immediately.

## TERMINATIONS

Perhaps terminations make more sense in your situation, here is a quick guideline to terminations. There are two ways in which we look at terminations Employment Standards minimum, and Case Law when employers are taken to court. You can provide working notice or pay in lieu of notice. Please remember that we are HR Consultants and not Employment Lawyers.

Here is **Employment Standards** minimum:

<b>One week</b>	for employment of more than three months, but less than two years,
<b>Two weeks</b>	for employment of two years, but less than four years,
<b>Four weeks</b>	for employment of four years, but less than six years
<b>Five weeks</b>	for employment of six years, but less than eight years
<b>Six weeks</b>	for employment of eight years, but less than 10 years
<b>Eight weeks</b>	for employment of 10 years or more

**Case Law** suggests anywhere between 2-4 weeks per year of service. The difference is vast, if you want to talk about this in more detail, please contact Avail's HR Consulting department.

## WHAT WILL EMPLOYEES BE PAID ON EMPLOYMENT INSURANCE?

Employees who are terminated without cause and on layoff are likely to receive EI. For most people, the basic rate for calculating EI benefits is 55% of the average insurable weekly earnings, up to a maximum amount. As of January 1, 2020, the maximum yearly insurable earnings amount is \$54,200. This means that employees can receive a maximum amount of \$573 per week. Because the last updated unemployment rate in Southern Alberta is 7.3%, employees are required to have 630-664 insurable hours. The more hours, the more time the employee will be covered.

Can my employee work while on EI?

- Yes, you can work while getting EI, but half the amount you earn will be taken off your EI benefits.
- This applies as long as you do not earn more than 90% of the average insurable earnings your benefit was based on. Any money you earn above that 90% will be fully taken off your benefits.

Visit the Government of Canada EI Benefits page here:

<https://www.canada.ca/en/services/benefits/ei/ei-regular-benefit/benefit-amount.html>

Employees (and business owners) can apply for Emergency Financial Assistance:

[https://www.alberta.ca/emergency-financial-assistance.aspx?fbclid=IwAR1BFrsS\\_SYVrdW160Rq5qIb06usTFIVDJqdk3sL1M3D2M\\_a5WCCt\\_UCoX4](https://www.alberta.ca/emergency-financial-assistance.aspx?fbclid=IwAR1BFrsS_SYVrdW160Rq5qIb06usTFIVDJqdk3sL1M3D2M_a5WCCt_UCoX4)

## WHAT IS THE 14-DAY SICK LEAVE?

It was initially announced as a paid sick leave for those who are diagnosed with COVID-19. On March 18, 2020 that was retracted to include only job-protected leave. This means that the employee's job is protected while away, however it is not a leave that qualifies under EI. The employee should apply for a different leave (see sickness leave below).

Changes to the Employment Standards Code will allow full and part-time employees to take 14 days of job-protected leave if they are:

- required to self-isolate
- caring for a child or dependent adult that is required to self-isolate

To be eligible, employees:

- will not be required to have a medical note
- do not need to have worked for an employer for 90 days

This leave covers the 14-day self-isolation period recommended by Alberta's chief medical officer. This leave may be extended if the advice of the chief medical officer changes. The leave does not apply to self-employed individuals or contractors.

## WHAT IS SICKNESS LEAVE?

Employment Insurance (EI) sickness benefits provide up to 15 weeks of income replacement and is available to eligible claimants who are unable to work because of illness, injury or quarantine, to allow them time to restore their health and return to work. Canadians quarantined can apply for Employment Insurance (EI) sickness benefits.

If you are eligible, visit the EI sickness benefits page to apply:

<https://www.canada.ca/en/services/benefits/ei/ei-sickness.html>

Service Canada is ready to support Canadians affected by COVID-19 and placed in quarantine, with the following support actions:

1. The one-week waiting period for EI sickness benefits will be waived for new claimants who are quarantined so they can be paid for the first week of their claim.
2. Priority EI application processing for EI sickness claims for clients under quarantine.

## DO I NEED TO PAY MY EMPLOYEES ADDITIONAL HAZARD PAY?

At the time of writing (March 17, 2020), you are not required to pay additional pay for this hazard. You should use all practicable measures to keep your employees safe.

## HOW DO I IMPOSE SOCIAL DISTANCING?

This is a great opportunity for employers to arrange for online/ video conferencing meetings. Meetings should be kept to a minimum with the least number of people possible. If you share workspaces or have common areas, they should be regularly cleaned.

## WILL CONTRACTORS WHO DON'T HAVE CARE FOR THEIR CHILDREN HAVE A WAY TO BE COMPENSATED FOR LOST WAGES? ARE THERE ANY OPTIONS FOR BUSINESS OWNERS WHO CANNOT APPLY FOR EI?

There is emergency funding available through the government of Alberta:

[https://www.alberta.ca/emergency-financial-assistance.aspx?fbclid=IwAR1BFrsS\\_SYVrdW160Rq5qIb06usTFIVDJqdk3sL1M3D2M\\_a5WCCt\\_UCoX4](https://www.alberta.ca/emergency-financial-assistance.aspx?fbclid=IwAR1BFrsS_SYVrdW160Rq5qIb06usTFIVDJqdk3sL1M3D2M_a5WCCt_UCoX4)

## WHAT ARE OTHER MEASURES?

**Mention to your employee that there are many measures taken by our government to help Canadians**

1. The tax deadline has been moved to June 1, 2020 and can defer payment until after August 31, 2020.
2. Ottawa will temporarily boost the Canada Child Benefit.
3. Most banks are allowing people to defer mortgage payments