

# Federal Government Temporarily Extends Timelines for Layoffs under the Canada Labour Code

**Date :** June 26, 2020

Since the beginning of the COVID-19 outbreak in Canada, federally regulated private sector employers who have had to temporarily layoff employees have been facing the looming timelines related to deemed terminations under the *Canada Labour Standards Regulations* (the "Regulations"). Ordinarily, the Regulations, which are subordinate legislation to the *Canada Labour Code*, allow employers to layoff employees for up to three months with no recall date, or up to six months if the employer provided a notice in writing with an expected date of recall. After the expiry of that timeline, however, employment is automatically deemed to have been terminated and an employer will be required to pay eligible employees termination pay (if notice of termination is not provided), severance pay and any accrued vacation pay.

On June 23, 2020, the Federal Minister of Labour announced changes to extend time periods for temporary layoffs in certain situations to allow employers more time to recall laid off employees. The amendments to section 30 of the Regulations, which came into effect on June 22, 2020, provide for the following temporary extensions:

## **Employees laid off for a period of three months or less:**

- by six months for employees who were laid off prior to March 31, 2020; or
- to December 30, 2020 for employees who were or are laid off between March 31, 2020 and September 30, 2020.

## **Employees laid off for more than 3 months with a fixed recall date or a fixed period within 6 months, the fixed date or fixed period in the written notice is extended:**

- by 6 months or until December 30, 2020, whichever occurs first, for employees laid off prior to March 31, 2020;
- to December 30, 2020 for employees laid off between the period of March 31, 2020 and September 30, 2020, where the fixed date or fixed period specified in the written notice occurs before December 30, 2020; or
- until the recall date where the fixed date or fixed period specified in the written notice occurs on or after December 30, 2020.

These announced temporary measures do not apply to additional situations where lay-offs are not considered terminations for the purposes of severance pay, individual or group notice of termination under section 30 of the Regulations.

For employees laid off after September 30, 2020, the ordinary rules related to layoffs will apply.

Furthermore, the amendments do not apply to employees who are covered by a collective agreement containing recall rights, or to employees whose employment had already been terminated prior to June 22, 2020.

Any additional time spent on temporary layoff as a result of the amendments will count towards employees' continuity of employment and will thus factor into the calculation of any amounts owing in the event that employment is eventually terminated.

## **In Our View**

As one of Canada's largest boutique-style labour and employment firms exclusively representing the interests of employers, Emond Harnden realized early on in the pandemic that this would quickly become a significant issue for many of its clients who did in fact intend to eventually return their employees to work, particularly in light of the uncertainty surrounding the anticipated length of the outbreak and the incredible financial hardship that the outbreak was creating for some businesses. On April 14, 2020, Emond Harnden wrote a [letter](#) to the Honourable Filomena Tassi, Minister of Labour, requesting that the timelines related to deemed terminations be extended or suspended.

Emond Harnden is proud of its efforts to advocate on behalf of its clients and is pleased with the changes recently announced by Minister Tassi in an effort to ease the financial pressure on federally regulated business and protect their continued viability. We remain committed to considering new and emerging employer issues resulting from the COVID-19 pandemic and to advocating on behalf of our clients in relation to these issues based on our significant experience in and knowledge of labour and employment law.

For further information or advice on your rights and obligations as an employer when dealing with COVID-19 and similar issues, please contact [Steven Williams](#) at [613-940-2737](#), [Colleen Dunlop](#) at [613-940-2734](#), [Kecia Podetz](#) at [613-940-2752](#) or [Lauren Jamieson](#) at [613-563-7660](#) ext. 236.