

Ford Keast HR Fast Facts

Pandemic Preparedness

Ontario's Bill 186, *Employment Standards Amendment Act (Infectious Disease Emergencies)*, 2020 has received royal assent and is law. This Act provides a job-protected leave for employees impacted by COVID-19. This new leave is entitled Emergency Leave: Declared Emergencies and Infectious Disease Emergencies.

Please note that this Fast Facts is as of March 31, 2020 and we continue to monitor government announcements.

The *Employment Standards Act* is a provincial Act. This new amendment to the Act provides for a **new unpaid, job-protected** emergency leave to any employee who is unable to work because:

- ❖ The employee is under medical investigation, supervision or treatment related to a designated infectious disease;
- ❖ The employee is acting in accordance with a relevant order under the *Health Protection and Promotion Act* related to a designated infectious disease;
- ❖ The employee is in quarantine or subject to a control measure (which can include self-isolation) implemented as a result of information or direction related to a designated infectious disease which has been issued to the public by a public health official, a qualified health practitioner, Telehealth Ontario, the provincial or federal governments, or a municipal council or board of health;
- ❖ The employee is directed by their employer not to work due to a concern that the employee may expose other individuals in the workplace to a designated infectious disease;
- ❖ The employee is providing care or support to any one of a defined* group of individuals related to a designated infectious disease including school and daycare closures; or
- ❖ The employee is directly affected by travel restrictions related to the designated infectious disease and who cannot reasonably return to Ontario.

Length of leave: The leave may last for as long as the employee is not performing their position for any one of the required reasons related to the designated infectious disease. Employees may remain on this leave as long as they are not completing their jobs due to an emergency declared under the *Emergency Management and Civil Protection Act*. The leave will end when the declared emergency is terminated.

Medical certificate: This is not required but employers may request other evidence reasonable in the circumstances, at a time that is reasonable in the circumstances, to support the employee's entitlement to leave. An example would be providing a copy of an airline ticket which is proof of travel and resultant required quarantine.

Effective: Job protection is retroactive to January 25, 2020

* Defined group of individuals includes:

Spouse; Parent of the employee or employee's spouse; Child of the employee or employee's spouse; Sibling of the employee or employee's spouse; Grandparent or grandchild of the employee or employee's spouse; Son or daughter-in-law of the employee or employee's spouse; Nephew or niece of the employee or employee's spouse; Spouse of the employee's grandchild, uncle, aunt, nephew or niece; Any person who considers the employee "to be like a family member", provided any prescribed conditions are met; and any other prescribed individual. Any other prescribed individual.

Ford Keast Fast Facts is made available for information-only. The intent is to provide a general understanding of HR matters. Content is not a substitute for advice related to specific employment situations. For specific advice, please contact Ford Keast Human Resources directly.

February, 2020

Sources: Government of Ontario, Mathews Dinsdale LLP, Weir Foulds LLP

Jann Danyluk, HR Consultant



Employer requirements related to this new leave of absence:

1. During this leave, employers must continue to allow employees to participate in their benefit plans, including pension plans, life insurance plans, accidental death plans, extended health plans, and dental plans.
2. During an emergency leave, employers must continue to make contributions to their employees' benefit plans, including pension plans, life insurance plans, accidental death plans, extended health plans, and dental plans.
3. Employers must allow employees to defer vacation until the emergency leave expires, unless the employer and employee both agree to a later date.
4. After the leave expires, employers must reinstate employees to their positions, if they still exist, or to comparable positions, if they do not exist.
5. After the leave expires, employers must pay their employees at a rate that is no less than the rate they most recently earned before the leave commenced.
6. Employers must include the duration of the emergency leave in the employee's length of service.

Please feel free to contact me at any time if I can assist you with your Human Resources challenges.

519.679.9330 Ext. 401 | jdanyluk@fordkeastHRC.ca

