

ONTARIO EXTENDS ESA COVID-19 PERIODS

IDEL COVID-19 Period Extended Again until January 1, 2022

The Ontario Government has once again extended the application of O.Reg 228/20, *Infectious Disease Emergency Leave* (“IDEL Regulation” or “Regulation”) until January 1, 2022. The IDEL Regulation provides relief measures to prevent mass terminations during COVID-19 and protects employers from statutory termination claims resulting from COVID-19-related layoffs.

On May 20, 2020, the IDEL Regulation came into effect under the *Employment Standards Act, 2000* (“ESA”). The IDEL Regulation provides temporary relief from various provisions of the *ESA* for non-unionized employers whose operations have been impacted by COVID-19. In particular, the IDEL Regulation provides:

- An employee whose hours of work have been temporarily reduced or eliminated during the COVID-19 period for reasons related to COVID-19 is deemed to be on an unpaid “infectious disease emergency leave” (“IDEL”), not on temporary layoff; and
- A temporary reduction or elimination of an employee’s hours or wages during the COVID-19 period for reasons related to COVID-19 is not a constructive dismissal under the *ESA*.

The COVID-19 period was previously set to expire on September 25, 2021. However, the Ontario Government has now extended the COVID-19 period until January 1, 2022.

When the Regulation came into effect, it was clear that an employee placed on IDEL would not be considered laid off or terminated under the *ESA*. However, the question remained what impact it would have on common law claims for constructive dismissal. Previous case law has been contradictory and we await guidance from the appellate court on this significant issue.

Ontario Paid Leave for COVID-19 Extended to December 31, 2021

Entitlement to IDEL Pay under Bill 284 has now been extended to December 31, 2021. Bill 284 amended the *Employment Standards Act, 2000* (“ESA”) to provide eligible employees with up to three days of paid leave for reasons relating to an infectious disease, including COVID-19 (“IDEL Pay”). IDEL Pay is in addition to an employee’s right to take an unpaid infectious disease emergency leave (IDEL) under the *ESA*. Our analysis of Bill 284 can be found [here](#).

Employers seeking reimbursement for providing IDEL pay under the *ESA* may apply here: <https://ontario-covid19-worker-income-protection-benefit.ca/en>

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