

Ontario Extends Deemed Infectious Disease Emergency Leave (IDEL)

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On May 29, 2020, the government issued a regulation under the *Employment Standards Act, 2000* (ESA) to deem employees whose hours or wages were reduced or eliminated due to COVID-19 to be on a deemed IDEL (previously discussed here). This temporary change resulted in employees' temporary layoffs being converted into a deemed IDEL for the duration of the "COVID-19 Period" (i.e., March 1, 2020 until September 4, 2020). However, on September 3, 2020, the government announced that the duration of the COVID-19 Period would be extended to January 2, 2021.

This extension is welcome news for Ontario employers who are not yet able to recall employees back to work or restore their hours and wages. Employers now have additional time to prepare their recall plans for employees who are on deemed IDEL. If employers cannot recall their employees by January 2, 2021, the standard ESA rules will be re-engaged, limiting employers' ability to defer their termination-related liabilities. Employers may be able to temporarily lay off employees who are currently on a deemed IDEL as of January 2, 2021, but should ensure they understand the employment law implications of such measures and, in particular, the potential risk for constructive dismissal claims (previously discussed here).

Employees who remain on deemed IDEL may continue to receive financial assistance from the Government of Canada through the extension of the Canada Emergency Response Benefit (CERB), temporary changes to the Employment Insurance (EI) program, and three new federal income support programs (previously discussed here).

The Cassels Employment & Labour Group is continuing to monitor legislative developments relating to COVID-19 that impact employers and employees and will provide updates as they become available.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.