

Paid IDEL Extended in Ontario; Deemed IDEL is Over

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On July 21, 2022, the Ontario government filed new regulations amending Ontario Regulation 228/20 (O. Reg. 228/20), resulting in the extension of paid Infectious Disease Emergency Leave (IDEL) until **March 31, 2023**. As a result, Ontario employers are obliged to continue to provide employees with up to three days of paid leave if the employee is unable to work for reasons related to COVID-19. Employees in Ontario are currently entitled to IDEL if they are required to be absent from work for any of the following reasons:

1. The employee is under individual medical investigation, supervision or treatment;
2. The employee is subject to an order of a medical officer of health or a court under the *Health Protection and Promotion Act*;
3. The employee is in quarantine or isolation or subject to a control measure, including self-isolation;
4. The employer directs the employee to stay at home because of concerns that the employee might expose other individuals in the workplace to the designated infectious disease;
5. The employee is providing care to specified family or household members (including providing care to minor children in the event of closures of schools and daycares); or
6. The employee is directly affected by travel restrictions preventing the employee from returning to Ontario.

Employers will continue to be eligible to submit claims for reimbursement of up to \$200.00 per day of paid IDEL (to a maximum of three days per eligible employee) to the Workplace Safety and Insurance Board. Detailed information on how to submit a claim can be found [here](#).

The extension of the paid IDEL program did not include “deemed IDEL, which ended on July 30, 2022. As of July 30, 2022, employees are no longer deemed to be on IDEL where their hours of work are temporarily reduced or eliminated by the employer for reasons related to COVID-19. Instead, the termination and severance rules under the *Employment Standards Act, 2000* (the ESA) related to layoffs will once again apply. In addition, any such temporary reductions in wages or hours will no longer be deemed *not* to be a constructive dismissal under the ESA.

For a refresher on “deemed IDEL,” please see our previous Insight. For a discussion on how the prohibition on constructive dismissal claims actually played out in wrongful dismissal litigation, please see [this article](#).

It is important to note that, although “deemed IDEL” is no longer in effect, employees are still entitled to access an unpaid, job protected IDEL over and above the three days of paid IDEL. IDEL will remain available to Ontario employees as long as the province continues to designate COVID-19 as an infectious

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disease within the meaning of O. Reg. 228/20. Currently, there is no scheduled expiry date for this designation.

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