



Employment Standards Chart

The following chart is provided for information purposes only and is not intended as legal advice. Members are strongly encouraged to obtain independent legal advice before laying off and/or terminating any employees to receive advice specific to their circumstances. The information provided below is current to March 17, 2020 and subject to change.

| Temporary Layoffs* | | | | | |
|--|-----------------------------|---|---|--|--|
| *Note: Employers may be restricted by common law from laying off employees, unless they have a contractual right to do so. | | | | | |
| | Temporary layoff permitted? | Temporary layoff notice requirements | Number of weeks permitted | Call back requirements | Termination or severance pay owed |
| Ontario Employment Standards Act, SO 2000 c 41 | Yes – ESA s.56(2) | None | ESA s.56(2) - 13 weeks in any period of 20 consecutive weeks OR less than 35 weeks in a period of 52 consecutive weeks where the employee receives substantial payments from the employer, retirement/pension/insurance benefits, supplementary unemployment benefits, employed elsewhere during the layoff but would be entitled to unemployment benefits, employer recalls the employee within the time approved by the union, or for non-union employees the employee is recalled within the time set out in the agreement. ESA s.56(3.1) – an employee is considered laid-off where in a regular work week the employee earns less than one-half the usual amount earned in the same regular work week, and the week is not an excluded week (defined in s. 56(3)) | ESA s.56(4) – a temporary layoff is not considered termination even where no recall date is specified, unless the period of the layoff exceeds the time permitted for a temporary layoff. | ESA s.56(4) – no pay owed unless the temporary layoff exceeds the permitted number of weeks. |
| Quebec Act respecting labour standards, CQLR c N-1.1 | Yes – s.82 | s.82 – Notice is required for laying an employee off for six months or more. | s.82-83 – less than six months. This does not apply to employees who have less than 3 months uninterrupted service, who have a fixed term contract or contract that expires at the completion of an undertaking, who has committed a serious fault, or where the end of the employment contract or layoff is a result of superior force (s. 82.1). | s.83 – must be recalled before expiration of the six months otherwise the employee must be paid a compensatory indemnity equal to their regular wage. | s.83 – if the six-month period is exceeded, the employee must be paid a compensatory indemnity equal to their regular wage. |



| | | | | | |
|---|---|--|--|---|--|
| <p>Manitoba</p> <p><i>The Employment Standards Code, CCSM c E110</i></p> <p><i>Employment Standards Regulation, Man Reg 6/2007</i></p> | <p>Yes – Regulation at s.23(1)</p> | <p>None.</p> | <p>Regulation at s.23(1) – less than 8 weeks within a 16-week period. However, a layoff is not considered termination where the layoff is for a period of more than 8 weeks in a 16 week period and employees are subject to recurring layoffs, or the employer continues to make payments to the employee directly or through a pension plan, insurance plan, or group insurance plan.</p> | <p>No call back requirements.</p> | <p>Regulation at s.23(2) - When a layoff is deemed a termination, the termination is deemed to be without notice on the first day of the layoff, and the employer must pay a wage in lieu of notice in accordance with section 77 of the Code.</p> |
| <p>Saskatchewan</p> <p><i>The Saskatchewan Employment Act, SS 2013, c S-15.1</i></p> | <p>No.</p> <p>s.2-1(l) defines “layoff” as a “temporary interruption by an employer of the services of an employee for a period exceeding six consecutive workdays”.</p> | <p>Not applicable</p> | <p>Not applicable</p> | <p>No call back requirements.</p> | <p>Subdivision 12 s.2-60(1) – notice must be given to employees in the case of layoff in accordance with their period of employment.</p> <p>s.2-61(1) – an employer must pay to the employee the sum earned by the employee during the notice period, and the equivalent of the employee’s wages for that notice period. If there is a collective agreement, the agreement must be followed.</p> |
| <p>Alberta</p> <p><i>Employment Standards Code, RSA 2000 C E-9</i></p> | <p>Yes – s.62(1)</p> | <p>s.62(1) – notice is required. s.62(2) – notice required is as follows:</p> <ul style="list-style-type: none"> • Less than 2 years employment = 1 week • 2 years or more employment = 2 weeks • Or as soon as practicable if unforeseen events prevent advance notice <p>s.62(3) – the notice must: (a) state that it is temporary notice, (b) state the date the layoff is to commence,</p> | <p>s.63(1) – 60 days within a 120-day period. However, this may be extended if the employer pays the employee wages or makes payments for the benefit of the laid-off employee in accordance with pension or insurance plans, or there is a collective agreement stating otherwise.</p> | <p>s.64(1) – recall notice required.</p> <p>s.64(2) – the recall notice must (a) be in writing, (b) be served on the employee, and (c) state that the employee must return to work within 7 days of the date the recall notice is served on the employee.</p> | <p>s.63(2) – when the payments under s.63(1)(a) cease or recall rights under (1)(b) expire, termination pay is payable.</p> <p>s.64(3) – if the employee does not return to work after the recall notice, the employee is not entitled to termination notice or pay if the employer decides to terminate the employment as a result of the employee not returning to work.</p> |



| | | | | | |
|---|----------------------|---|--|---|---|
| | | (c) include a copy of section 62, 63, and 64 of the Code, and (d) include any other information provided in the regulations. | | | |
| British Columbia <i>Employment Standards Act, RSBC 1996, c 113</i> | Yes – s.1(1) | None. | s.1(1) – max 13 weeks in any period of 20 consecutive weeks OR the time before an employee’s right of recall expires. | s.1(1) – right of recall for employees under a collective agreement. | s.63(5) – an employee laid off for more than a temporary layoff is deemed terminated. |
| New Brunswick <i>Employment Standards Act, SNB 1982, c E-7.2</i> | No. | Not applicable | Not applicable | Not applicable | Not applicable |
| Newfoundland and Labrador <i>Labour Standards Act, RSNL 1990, c L-2</i> | Yes – s.49(1) | s.52(2) – written notice required. s.55(1) – notice required as follows: <ul style="list-style-type: none"> • Continuous employment more than 3 months but less than 2 years = one week • Continuous employment for more than 2 years and less than 5 years = 2 weeks • Continuous employment for more than 5 years but less than 10 years = 3 weeks • Continuous employment for more than 10 years but less than 15 years = 4 weeks Continuous employment for more than 15 years = 6 weeks | s.49(1) – max 13 weeks in a period of 20 consecutive weeks. | None. | s.50 – if temporary layoff exceeds the 13 weeks the employment is deemed to be terminated. |



| | | | | | |
|--|---|--|---|---|---|
| <p>Nova Scotia</p> <p><i>Labour Standards Code, RSNS 1989, c 246</i></p> | <p>Yes.</p> <p>s.1(1) defines “layoff” as a temporary or indefinite termination of employment because of lack of work, or elimination of a position.</p> | <p>s.72(1) – notice requirements as follows:</p> <ul style="list-style-type: none"> • Employment less than 2 years = 1 week • Employment 2 years or more but less than 5 years = 2 weeks • Employment 5 or more years but less than 10 years = 4 weeks • Employment is 10 years or more = 8 weeks <p>s.72(2) – notice requirements are increased if 10 or more people are laid off within 4 weeks or less.</p> | <p>None.</p> | <p>None.</p> | <p>s.76(2) – where employment is terminated due to continued layoff, the employee is entitled to pay under section 72 as though the employment was terminated without notice on the first day of layoff.</p> |
| <p>Prince Edward Island</p> <p><i>Employment Standards Act, RSPEI 1988, c E-6.2</i></p> | <p>No.</p> | <p>None.</p> | <p>None.</p> | <p>None.</p> | <p>None.</p> |
| <p>Yukon</p> <p><i>Employment Standards Act, RSY 2002, c 72</i></p> | <p>Yes – s.48(1)</p> | <p>s.58(2) – notice required to Director if temporarily layoff 50 or more employees in a four-week period.</p> | <p>s.48(1) – Max 13 weeks in a period of 20 consecutive weeks (may exceed 13 weeks where the employer has recalled the employee)</p> | <p>s.48(1) – ability to recall employee within time permitted by Director.</p> | <p>s.53(1) – if the temporary layoff exceeds the permitted time, the employee is deemed terminated at the date of the start of the layoff, and owed termination pay as per s.51.</p> |



Statutory Notice and Severance Pay Requirements for Termination without Cause (including situations where layoff is deemed permanent or is not permitted) *

*Note: These are minimum statutory requirements only; employers may have greater obligations pursuant to contract and/or the common law.

| | Pay in lieu of Notice of Termination | Severance pay |
|-------------------------|---|--|
| Ontario | <3 mths = 0 3-12 mths = 1 wk 1-3 yrs = 2 wks >3 yrs = 1 wk/completed yr to max. of 8 wks | 1 wk/yr of service or part thereof to max. of 26 wks (*only applicable if >\$2.5 million payroll & 5+ years of service) |
| Quebec | <1 yr = 1 wk 1-5 yrs = 2 wks 5-10 yrs = 4 wks >10 yrs = 8 wks | None for private employees. |
| Manitoba | < 1 yr = 1 wk 1-3 yrs = 2 wks 3-5 yrs = 4 wks 5-10 yrs = 6 wks >10 yrs = 8 wks | None for private employees. |
| Saskatchewan | 13 consecutive wks to 1 yr = 1 wk 1-3 yrs = 2 wks 3-5 yrs = 4 wks 5-10 yrs = 6 wks >10 yrs = 8 wks | None for private employees. |
| Alberta | 90 days to 2 yrs = 1 wk 2-4 yrs = 2 wks 4-6 yrs = 4 wks 6-8 yrs = 5 wks 8-10 yrs = 6 wks >10 yrs = 8 wks | None for private employees. |
| British Columbia | 3-12 months = 1 wk 1-3 yrs = 2 wks >3 yrs = 3 wks plus one additional week's wages for each additional year (max 8 wks) | None for private employees. |
| New Brunswick | 6 months to 5 years = 2 wks >5 yrs = 4 wks | None for private employees. |



| | | |
|----------------------------------|---|-----------------------------|
| Newfoundland and Labrador | 3 months to 2 yrs = 1 wk 2-5 yrs = 2 wks 5-10 yrs = 3 wks 10-15 yrs = 4 wks >15 yrs = 6 wks | None for private employees. |
| Nova Scotia | <2 yrs = 1 wk 2-5 yrs = 2 wks 5-10 yrs = 4 wks >10 yrs = 8 wks | None for private employees. |
| Prince Edward Island | 6 months to 5 yrs = 2 wks 5-10 yrs = 4 wks 10-15 yrs = 6 wks >15 yrs = 8 wks *Note there are certain exceptions where no notice or pay in lieu of notice is required, including where termination is because of the "actions of any governmental authority that affect directly the operations of the employer" | None for private employees. |
| Yukon | <1 yr = 1 wk 1-3 yrs = 2 wks 3-4 yrs = 3 wks 4-5 yrs = 4 wks 5-6 yrs = 5 wks 6-7 yrs = 6 wks 7-8 yrs = 7 wks >8 yrs = 8 wks | None for private employees. |



COVID-related Proclamations and Tabled Legislation

| | Provincial proclamations/ tabled legislation | Federal Government |
|----------------------------------|--|--|
| Ontario | <p>Medical note cannot be required for absence related to COVID-19 illness or mandated self-isolation up to 14 days.</p> <p>Job protected leave for employees unable to work due to Health Protection and Promotion Act, isolation or quarantine, acting in accordance with public health information or direction, need to provide care to a person related to Covid-19 closures. This will be retroactive to January 25, 2020.</p> | <p>Waiver of 1 week waiting period for Employment Insurance benefits if unable to work due to COVID-19 diagnosis or required self-isolation.</p> <p>Medical certificate not required where quarantine is imposed by legislation, government, medical professional, public safety officer, or voluntary self-isolation because close family or relative with which they have had contact is quarantined.</p> <p>Changes to Work Sharing Program which is designed to assist employers avoid layoffs where there is a temporary reduction in normal business out of the control of the employer.</p> |
| Quebec | <p>New program called PATT (Temporary Assistance Workers Program). Under this program, workers and independent contractors who are self-isolated because they have Covid-19, have travelled out of the country and returned on or after March 12, 2020, have flu or cold like symptoms, or have been in contact with someone with Covid-19, and have no other source of revenue (from employer, insurer, EI) are entitled to receive \$573 per week from the provincial government for a period of four weeks.</p> <p>Request that employers do not ask for medical certificates from employees.</p> | |
| Manitoba | None as of March 17, 2020. | |
| Saskatchewan | <p>Remove requirement for 13 weeks of employment with the employer to access sick leave.</p> <p>Waiver of requirement for a doctor's note.</p> <p>New unpaid public health emergency leave.</p> <p>All changes are retroactive to March 6, 2020.</p> | |
| Alberta | <p>14 days paid job protected leave for self-isolation or caring for a loved one with Covid-19.</p> <p>Requirements of a medical note and having worked at least 90 days to access leaves of absence are waived.</p> | |
| British Columbia | Waive requirement for a doctor's note to take sick leave. | |
| New Brunswick | All non-essential <u>public</u> sector employees are asked to stay home with pay. | |
| Newfoundland and Labrador | None as of March 17, 2020. | |
| Nova Scotia | Request that employers waive requirement for doctor's notes for sick leave or self-isolation. | |
| Prince Edward Island | Emergency Contingency Fund created to help island businesses, but no program developed yet. | |
| Yukon | <p>Paid sick leave for 14-day Covid-19 related isolation.</p> <p>Deferring Workers' Compensation Health and Safety premium payments and will reimburse up-front payments, waive penalties and interest.</p> <p>Establishing a program to reimburse Yukon employers who are providing additional paid sick leave to employees for Covid related illness.</p> | |