

FTR Now

COVID-19 Update: Certain Businesses Permitted to Reopen, and More

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Province Allows Certain Businesses to Reopen

By [Sarah Iaconis](#)

On May 1, 2020, the [Ontario government announced](#) that it is permitting certain businesses and workplaces to begin operations as of Monday, May 4 at 12:01 a.m., as long as strict public health measures are complied with and they operate safely during the COVID-19 outbreak in accordance with health and safety guidelines.

This announcement comes on the heels of the announcement on April 30, 2020 (see article immediately following) that the government, in partnership with Ontario's health and safety associations, has developed health and safety guidelines for workplaces to be reopened safely.

The list of businesses permitted to open are:

- Garden centres and nurseries with curbside pick-up and delivery only
- Lawn care and landscaping
- Additional essential construction projects that include:
 - shipping and logistics
 - broadband, telecommunications, and digital infrastructure

- any other project that supports the improved delivery of goods and services
- municipal projects
- colleges and universities
- child care centres
- schools, and
- site preparation, excavation, and servicing for institutional, commercial, industrial and residential development
- Automatic and self-serve car washes
- Auto dealerships, open by appointment only
- Golf courses, which may prepare their courses for the upcoming season but not open to the public, and
- Marinas, which may begin preparations for the recreational boating season by servicing boats and other watercraft and placing boats in the water but not open to the public. Boats and watercraft must be secured to a dock in the marina until public access is allowed.

Also see our *Human Resources Legislative Update* of April 27, 2020 [Ontario Unveils Framework for Reopening the Province](#).

Ontario Announces Workplace Health and Safety Guidance

By [Mariana Kamenetsky](#)

On April 30, 2020, the [Ontario government announced](#) new workplace health and safety guidelines in anticipation of a gradual reopening of the provincial economy to assist in the challenges of restarting business operations while minimizing the risks to the health and safety of employees and clients.

The sector-specific guidelines relate to issues such as, for example, physical distancing, staggering shift times, proper sanitation techniques, holding meetings outside, cleaning work surfaces and regularly touched items frequently, erecting barriers, and using boot sanitizing trays.

The sectors for which the guidelines have been developed are:

- [construction](#)
- [food processing](#)
- [restaurants and food services](#)
- [agriculture](#)
- [manufacturing](#)

[Posters for these sectors have also been published.](#)

On April 30, 2020 the [Ontario government also announced](#) that the Ministry of Labour, Skills and Training Development has been working closely with four provincial health and safety associations (HSAs) (Infrastructure Health and Safety Association (IHSA), Public Service Health and Safety Association (PSHSA), Workplace Safety North (WSN) and Workplace Safety and Prevention Services (WSPS)) to “help set, communicate and enforce the *Occupational Health and Safety Act*.”

The HSAs have now released a series of more than [60 technical sector guidance documents](#) to support the safety of employers and employees during the pandemic.

Among other things, the guidance documents contain resources for the following workplaces:

- construction, utility and transportation (IHSA)
 - healthcare, EMS, fire, police and municipalities (PSHSA)
 - forestry, mining and industrial work camps (WSN)
 - retail, food retail, curbside pickup and delivery services, equipment operators and general labourers, management, funeral services, hospitality, laundry and housekeeping services, maintenance, office workers (including engineers), restaurants, the TV and film industry, vehicle service, sales, and warehouses (WSPS).
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Ontario Expands the List of Essential Workers Eligible to Receive Free Emergency Child Care

By [Rebecca Liu](#)

On April 29, 2020, the Ontario government filed [Ontario Regulation \(O. Reg.\) 183/20](#) made under the *Emergency Management and Civil Protection Act* which expands the list of frontline workers who are eligible to receive free emergency child care during the COVID-19 outbreak. The entire list is found in Schedule A of [O. Reg. 51/20](#), as amended.

The additional workers include, among others:

- workers in grocery stores and pharmacies
 - truck drivers
 - workers who work for a business that processes, manufactures or distributes food or beverages
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- workers and volunteers in retirement homes
- support staff in health care settings, including cooks and cleaning staff
- interpreters and intervenors who support people who are deaf, deafened, hard of hearing or deafblind
- individuals employed by the Ministry of Attorney General or a municipality who are required to work on site to support the administration of the courts in Ontario including court staff, enforcement officers, prosecutors and employees of the Victim/Witness Assistance Program
- Canadian Armed Forces and Department of National Defence staff working in Ontario.

Anyone redeployed to a position listed in Schedule A of O. Reg. 51/20 is also eligible for free child care.

The government announced that it has approved 37 additional child care centres which are expected to open in the coming days.

WSIB: Receipt of CEWS and Temporary Wage Subsidy to be Included as Insurable Earnings

By [Rayaz Khan](#)

On April 28, 2020, the Workplace Safety and Insurance Board (WSIB) updated its [Frequently Asked Questions page](#) regarding issues relating to COVID-19 for businesses. The update contains important information for employers in receipt of funds under the Canada Emergency Wage Subsidy (CEWS) and Temporary Wage Subsidy programs.

The WSIB advises that wages paid to employees by employers who are in receipt of the CEWS and Temporary Wage Subsidy are not being re-classified by the federal government as employment insurance benefits or social assistance. These wages are considered taxable earnings and should be included as insurable earnings when reporting and paying WSIB premiums. This includes wages paid to employees who have returned to work or who are still on paid leaves resulting from COVID-19. Premium reporting and payment can be deferred until August 31, 2020 through the WSIB's online services.

For more information on insurable earnings, please see the WSIB's [policy on determining insurable earnings](#).

For information on the financial relief initiatives offered by the WSIB, see our *Human Resources*

Legislative Update of March 28, 2020 [WSIB Announces Relief Package for Businesses](#).

Further Amendments to the *Employment Insurance Act* and New Canada Emergency Student Benefit

By [Caitlin Morin](#)

Changes to the *Employment Insurance Act*

On April 29, 2020, the federal government published [Interim Order No. 2 Amending the *Employment Insurance Act \(Employment Insurance Emergency Response Benefit\)*](#), and [Interim Order No. 3 Amending the *Employment Insurance Act \(Employment Insurance Emergency Response Benefit\)*](#).

As [we previously reported](#), the [Interim Order](#) published on April 15, 2020 amended the *Employment Insurance Act* (EI Act) to provide that persons who qualify for EI regular or sickness benefits under the regular rules will receive the EI ERB.

Interim Order No. 2 amends the EI Act to provide that persons who receive the EI ERB can receive income of up to \$1,000 from employment or self-employment over four weeks in respect of which the EI ERB is paid.

Interim Order No. 3 amends the EI Act to expand eligibility for the EI ERB to EI claimants who recently exhausted regular EI benefits and are unable to start working for reasons related to COVID-19.

Interim Orders No. 2 and No. 3 also clarify that all EI ERB claimants must have at least seven consecutive days without income from employment or self-employment within the two-week period in respect of which they claim the EI ERB, subject to the exception for income of up to \$1,000 noted above.

Canada Emergency Student Benefit

On April 29, 2020, the House of Commons passed Bill C-15, [Canada Emergency Student Benefit Act](#) (CESB Act). The CESB Act implements the Canada Emergency Student Benefit (CESB) that Prime Minister Trudeau [announced](#) on April 22, 2020.

The CESB Act is expected to receive Royal Assent on or around May 1, 2020.

What is it?

- The CESB is a form of income support implemented under the new CESB Act.
- The CESB applies to any four-week period falling within the period prescribed by regulation.
- Students who apply for the CESB on the basis that they are seeking work but are unable to find it will be required to attest to the fact that they are seeking work.
- The Minister of Employment and Social Development will make available to eligible students information about employment opportunities through a government-managed job posting system.

Who is eligible?

- The CESB is available to students who:
 - are a Canadian citizen, a person registered as an Indian under the *Indian Act*, a permanent resident as defined in the *Immigration and Refugee Protection Act* or a protected person within the meaning of that Act and who:
 - are enrolled, at any time between December 1, 2019 and August 31, 2020, in a post-secondary educational program that leads to a degree, diploma or certificate, or
 - have graduated from secondary school in 2020, have applied for enrollment in such post-secondary educational program that is scheduled to begin before February 1, 2021 and plan to enroll in the program if their application is accepted; and
 - “for reasons related to the coronavirus disease 2019,” they are unable to work, are seeking work and unable to find it, or are working but are paid less than the amount determined under the Regulations, during the four-week period for which they apply, and
 - do not receive, in respect of that four-week period:
 - income from employment or self-employment
 - Employment Insurance (EI) benefits or an EI Emergency Response Benefit (EI ERB)
 - pregnancy or parental benefits under a provincial plan, or
 - a Canada Emergency Response Benefit (CERB) payment.
- The regulations to be made under the CESB Act can specify types of employment income that will not affect eligibility during the four-week period.

How much is it?

- The amount of the CESB will be specified in the regulations. According to the government’s news release, the CESB will be \$1,250 per month for eligible students, or \$1,750 per month for eligible students with dependents or disabilities, and the CESB will be available from May to August 2020.

Guidance for Employers of Temporary Foreign Workers

By [Amanda Cohen](#)

On April 20, 2020, the federal government published [Regulations Amending the Immigration and Refugee Protection Regulations \(Emergencies Act and Quarantine Act\)](#) (Regulations). These amendments enact new requirements for foreign nationals and employers of temporary foreign workers regarding compliance with federal, provincial and territorial efforts to protect public health.

Among other things, the Regulations impose associated penalties on employers who do anything that prevents the temporary foreign worker from complying with their requirements under the *Emergencies Act* or the *Quarantine Act*, as well as any provincial and territorial laws that regulate public health in response to COVID-19 in the province or territory in which the temporary foreign worker is employed. They also require employers to provide the worker with wages that are substantially the same as those set out in the offer of employment, for the period of mandatory quarantine (14 days).

On April 22, 2020, the government released [updated compliance obligations and guidelines for employers](#) utilizing temporary foreign workers (Guidelines). Among other things, the Guidelines set out the following:

- the employment relationship begins when a temporary foreign worker enters Canada
- consistent with the government's orders under the *Quarantine Act*, temporary foreign workers will be required to comply with the mandatory quarantine requirements upon entry into the country
- further details are provided on the wages to be paid during the quarantine period: the employer is required to pay temporary foreign workers for a minimum of 30 hours per week at the hourly rate of pay specified on the Labour Market Impact Assessment (LMIA) or in their offer of employment; this requirement includes an obligation to provide benefits during this time
- employers are not entitled to redeploy temporary foreign workers or ask them to perform other duties during the quarantine period (e.g. administrative tasks), even if requested by the worker; exceptions apply for those deemed by the Chief Public Health Officer as providing an essential service
- while the temporary foreign worker is in quarantine, an employer cannot make the worker interact with workers or others who are not in quarantine, and its obligations could include assisting workers obtain access to food, medicine or basic supplies during the period of quarantine

- employers are asked to provide temporary foreign workers with the tools necessary to practice good hygiene (e.g. access to facilities that enable them to wash their hands, providing soap, providing alcohol based sanitizer, etc.)
- employers are asked to provide information to temporary foreign workers on COVID-19, and it is suggested that this be done in the language that the worker understands
- further obligations exist for employers who provide accommodation to temporary foreign workers.

Employers of temporary foreign workers should consult the full text of the guidelines to ensure that they are taking all steps necessary to comply with them.

For more information on any of these issues, please contact the author of the articles above or [your regular Hicks Morley lawyer](#).

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