

COVID-19 HR RELATED FAQ's - ALBERTA

Updated August 7, 2020

Please note – as this is an evolving situation, we will endeavour to update information as it becomes available from verifiable sources

Q: What if my employee refuses to come in to work?

A: Under Alberta's Occupational Health & Safety legislation, an employee has the right to refuse unsafe work. Employer's have a duty to keep their staff safe during an outbreak therefore, the employer would need to investigate and assess whether the work is unsafe and if it poses risk or harm to the employee. Appropriate hazards would include if someone in the workplace has COVID-19, if they're reporting flu-like symptoms or if they've travelled to an at-risk country recently.

Once a hazard is identified, an employee is entitled to receive pay until the employer investigates and addresses the concern. If after the employer's assessment, the risk is minimal or nonexistent, the employee would be required to return to work. However, if the employee continues to refuse to work, then the employee would be deemed to be unavailable for work and may not be paid. Given employers have an obligation to keep their staff safe and informed, employers should provide information about COVID-19, from proper handwashing to understanding the symptoms, and supplying items like hand sanitizer and encouraging social distancing to reduce their fears about their risks around COVID-19.

**For vulnerable employees with pre-existing conditions (e.g. with asthma), they may have to be accommodated to ensure their safety.

Please visit the following link for more information:

<https://www.alberta.ca/ohs-legislation.aspx>

Q: I've tried all options however my business is really struggling, and I cannot afford to keep my staff, what can I do?

A: You may want to consider **Temporary Layoffs** for your staff. In Alberta, the Government announced a temporary extension increasing the maximum time for a temporary layoff from 60 days to **180 consecutive days for employees who, due to COVID-19, received temporary layoff notice on or after June 18, 2020, or a temporary layoff was underway as of June 18, 2020.** On the 181st consecutive day of a temporary layoff, the employee's employment is considered to be ended, and the employer must pay termination pay.

For temporary layoffs that occurred for reasons other than COVID-19, the following rules apply:

- For Layoffs that started between March 17 and June 17, the maximum layoff duration is 120 consecutive days.

Employers are encouraged to notify employees if their layoff period gets extended due to an updated rule change.

Under the current “unforeseeable circumstances”, written notice requirements must still be provided along with specific other criteria in the temporary layoff letter. With instances such as COVID-19, employers are required to provide as much notice as possible given the circumstances.

The Government has also announced the following changes to take effect August 15, 2020:

- Improving scheduling flexibility by removing the 24-hour written notice requirement for shift changes, and the two weeks’ notice for changes to work schedules for those under an averaging agreement.
- Employers can lay employees off for a maximum of 90 days in total within a 120 day period (non-COVID related)

There will be one set of rules for all terminations of 50 or more employees in a four-week period rather than different requirements depending on the number of staff being terminated.

Be cautious when considering temporary layoff of any employee who is on self-isolation leave for medical reasons.

For more information: <https://www.alberta.ca/temporary-layoffs.aspx>
<https://www.alberta.ca/release.cfm?xID=700122D6A74F3-F688-D77B-42A3309636AA078B>

Q: Can I make my employee take his/her leave entitlements (Vacation, Banked OT) during the period they are self-isolating?

A: Employers and employees may consider using available leaves should an employee be required to self-isolate. Employees can request using their vacation pay or banked overtime, but employers are not required to grant the request. Provincial employment rules only require employers to provide vacation pay, vacation leave or pay banked overtime within a year of it being earned. Employers can request employees voluntarily take vacation leave and/or use their vacation pay or banked overtime but cannot force them to do so under provincial employment rules.

For more information: <https://www.alberta.ca/covid-19-support-for-employers.aspx#toc-2>



Salopek & Associates are currently working with Alberta-based clients on drafting messages to staff around COVID-19 that is specific to their business and workplace. Policies are being reviewed with respect to Sick Time, Paid Time Off, Leaves of Absence and Working from Home. Questions are being asked about Business Emergency Response Plans. Salopek is available on an On-Call basis to answer your questions. Give us a call!

Salopek & Associates

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