

JETRO Toronto/Toronto Shokokai/Pallett Valo LLP

COVID-19 WEBINAR SERIES – Part 1

REOPENING YOUR BUSINESS DURING COVID-19 – PREPARING A SAFETY PLAN AND GUIDELINES FOR YOUR BUSINESS

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Introduction & Overview

- Federal Travel Restrictions
- Framework for Reopening Ontario Businesses
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Federal Travel Restrictions

March 13, 2020 - the federal government requested that Canadians avoid travelling outside of Canada

March 21, 2020 - the federal government closed the US-Canada border to non-essential travel, with few exceptions (the border closure has been extended to July 21, 2020)

Federal Travel Restrictions

Persons returning to Canada from international travel including the USA are required to self-isolate on their return for 14 days, with some exceptions for certain essential service workers

Canada has instituted a mandatory self-isolation plan for returning travellers, which must be approved before the traveller may leave the airport or land border

Anyone returning without an appropriate plan will be placed in government-managed quarantine accommodation for 14 days. There are penalties for non-compliance

Framework for Reopening Ontario

On April 27, 2020, the Ontario government released *A Framework for Reopening our Province* outlining the government's plan to reopen businesses gradually based on the advice of the Chief Medical Officer of Health

There are three stages highlighted in the framework, each of which will last approximately 2 to 4 weeks to allow for close monitoring of the impact or potential spread of the virus

After each stage, the Chief Medical Officer of Health will advise the government whether to maintain the status quo, progress to the next stage or tighten measures in response to a further outbreak

Reopening of Businesses

The Ontario government permitted businesses and services in the following regions to reopen on Friday, June 12, 2020:

Algoma, Brant County, Chatham-Kent, Eastern Ontario, Grey Bruce, Haliburton, Kawartha, Pine Ridge District, Hastings Prince Edward, Huron Perth, Kingston, Frontenac and Lennox & Addington, Leeds Grenville & Lanark District, Middlesex-London, North Bay Parry Sound District, Northwestern, Ottawa, Peterborough, Porcupine, Sudbury & Districts, Region of Waterloo, Renfrew County and District, Simcoe-Muskoka District, Southwestern, Thunder Bay District, Timiskaming and Wellington-Dufferin-Guelph

These regions were permitted to reopen since they had lower transmission rates of COVID-19 and sufficient health care capacities *(they are now in Stage 2 of the Framework)*

Reopening of Businesses

The Ontario government permitted businesses and services in the following regions to reopen on Friday, June 19, 2020:

Durham Region; Haldimand-Norfolk; Halton Region; Hamilton; Lambton; Niagara Region and York Region

The Ontario government permitted businesses and services in the following regions to reopen on Wednesday, June 24, 2020:

Peel, Toronto

Reopening of Businesses

The Ontario government permitted businesses and services in the *City of Windsor and all other parts of Essex County (except the Municipality of Leamington and the Town of Kingsville)* to reopen on Thursday, June 25, 2020

The Municipality of Leamington and the Town of Kingsville will remain in Stage 1 until it is safe to move into Stage 2

Places that Can Open in Stage 2

Personal care services
Personal services
Restaurants & bars
Shopping malls & centres
Photography
Film & TV
Tour & guide services
Water recreational facilities
Outdoor recreational facilities
Beaches, parks & camping

Outdoor recreational team sports
Drive-in & drive-thru venues
Weddings, funerals and similar gatherings
Libraries
Community centres
Attractions & heritage institutions
Small outdoor events

Restaurants & Bars

Restaurants, bars, food trucks and other food and drink establishments can open for dining in outdoor areas only, such as patios, curbside, parking lots and adjacent premises if they follow the conditions below:

1. Patrons must be served,
 - i. through take-out, drive-through or delivery service, or
 - ii. at an outdoor dining area that is,
 - A. in or adjacent to the place of business, and
 - B. configured to ensure physical distancing of at least two metres between patrons seated at different tables

2. Public access to any indoor portions of the business must be limited to food pickup, payment, washroom access, access required to get to the outdoor dining area or access that is otherwise required for the purposes of health and safety

3. No dancing or singing may be permitted in the outdoor dining areas

Personal Care Services

Personal care services relating to the hair or body, including hair salons and barbershops, manicure and pedicure salons, aesthetician services, piercing services, tanning salons, spas and tattoo studios, may open if they comply with the following conditions:

1. No personal care services that tend to a patron's face, such as facials, facial hair grooming or removal or makeup applications, may be provided
2. Persons who provide personal care services in the business must wear appropriate personal protective equipment
3. Patrons must wear face covering at all times while receiving personal care services
4. Any locker rooms, change rooms, and showers must be closed, except to the extent they provide access to equipment storage, a washroom or a portion of the business that is used to provide first aid
5. Any steam rooms, saunas, whirlpools or bathhouses must be closed
6. Any baths, hot tubs, floating pools or sensory deprivation pods must be closed, unless they are used for a therapeutic purpose prescribed by, or administered by, a regulated health professional
7. Oxygen bars must be closed

Shopping Malls & Fitting Rooms

Shopping malls may open if they ensure that any interior dining spaces inside the shopping mall, including any tables and seating in food courts, are closed

This does not prevent a restaurant, bar or other food or drink establishment within a shopping mall from opening and operating in compliance with the above

Fitting rooms in a business may open if they comply with the following conditions:

1. The fitting room stalls must be equipped with a solid door that may be closed
2. Patrons must not be permitted to occupy adjacent fitting room stalls at any one time
3. The fitting room stalls must be cleaned and disinfected after each use

Golf Courses & Driving Ranges

Golf courses and outdoor driving ranges may open if they comply with the following conditions:

1. Any fitness centres or gyms on the premises must be closed
2. Any steam rooms, saunas, whirlpools or hot tubs on the premises must be closed
3. Clubhouses must be closed, except,
 - i. for the purpose of being used by appointment as event or meeting space in accordance with section 5 of Schedule 1, or
 - ii. to the extent they provide access to equipment storage, a washroom or a portion of the facility that is used to provide first aid

Photography and Film & TV

All photography studios and services, including portrait, aerial, special event, commercial and industrial photography can reopen

- Physical distancing must be maintained between all individuals on set whenever possible and must be taken into consideration when organizing the layout of the set

All film and television production activities will be allowed to resume

- Physical distancing must be maintained between all individuals on set whenever possible and must be taken into consideration when organizing the layout of the set

Camps for Children

Day camps for children may open if they operate in a manner consistent with the document entitled “COVID-19 Guidance: Summer Day Camps”, dated June 1, 2020

Camps that provide supervised overnight accommodation for children are closed

Personal Services & Conference Centres

Businesses that are primarily engaged in providing personal services to individuals, including personal shoppers, party and wedding planners, personal organizer services, personal physical fitness or sports trainers and house sitters, may open if they comply with the following conditions:

1. The service providers must maintain a physical distance of at least two metres from their patrons to the fullest extent possible
2. Personal physical fitness or sports trainers must provide services outside of a gym, except for a gym in the trainer's or patron's home

Conference centres and convention centres are closed

Weddings, Funerals & Gatherings

Venues can open to conduct wedding ceremonies, funerals and similar gatherings within existing public health restrictions

- Events will be required to comply with limits for social gatherings of **up to 10 people**
- Dine-in and bar services must be in-line with the related guidelines and restrictions
- Indoor and outdoor venues may open for weddings, funerals and similar gatherings, with limited access to facilities
- Guests that are not part of the same household should follow physical distancing guidelines

Businesses to Remain Closed

Casinos and charitable gaming halls are closed

Horse racing tracks are closed to spectators

Amusement parks and waterparks are closed

Creating Guidelines for Reopening

Considerable thought and planning must be undertaken before workplaces can reopen safely

It's not "business as usual"

Employers still have a duty to keep their employees safe and must be vigilant to ensure that they are following the advice of public health officials

Develop a COVID-19 Safety Plan

Employers need to:

- develop a safety plan before they reopen
- consult with their employees and their joint health and safety committee members or health and safety representatives for their input on the plan
- share the plan with their employees so that they understand how their employer plans to manage the risks of COVID-19

Implement Policies & Procedures

Require employees to complete a daily self-assessment questionnaire before coming to work

Limit non-essential business travel

Train employees regarding COVID-19 risk factors

Screening Workers

Employers should screen all workers on arrival at work for COVID-19 symptoms and other risk factors (eg. close contact cases, travel)

Actively screen by having someone ask the screening questions, where possible

Consider actively monitoring workers for symptoms more than once during their shift

Limit others who enter the workplace and put in place a similar screening process for those who must enter the workplace

Ontario COVID-19 Self-Assessment

Are you currently experiencing any of these symptoms? Choose any/all that apply.

- Fever(feeling hot to the touch, a temperature of 37.8 degrees Celsius or higher)
- Chills
- Cough that's new or worsening(continuous, more than usual)
- Barking cough, making a whistling noise when breathing(croup)
- Shortness of breath(out of breath, unable to breathe deeply)
- Sore throat
- Difficulty swallowing
- Runny nose(not related to seasonal allergies or other known causes or conditions)
- Stuffy or congested nose(not related to seasonal allergies or other known causes or conditions)
- Lost sense of taste or smell
- Pink eye(conjunctivitis)
- Headache that's unusual or long lasting
- Digestive issues(nausea/vomiting, diarrhea, stomach pain)
- Muscle aches
- Extreme tiredness that is unusual(fatigue, lack of energy)
- Falling down often
- For young children and infants: sluggishness or lack of appetite
- None of the above

<https://covid-19.ontario.ca/self-assessment/risk-factors>

Ontario COVID-19 Self-Assessment

Are you in any of these at-risk groups?

- 70 years old or older
- getting treatment that compromises (weakens) your immune system (for example, chemotherapy, medication for transplants, corticosteroids, TNF inhibitors)
- having a condition that compromises (weakens) your immune system (for example, lupus, rheumatoid arthritis, other autoimmune disorder)
- having a chronic (long-lasting) health condition (for example, diabetes, emphysema, asthma, heart condition)
- regularly going to a hospital or health care setting for a treatment (for example, dialysis, surgery, cancer treatment)

In the last 14 days, have you been in close physical contact with someone who tested positive for COVID-19? **YES/NO**

Close physical contact means:

- *being less than 2 metres away in the same room, workspace, or area for over 15 minutes*
- *living in the same home*

<https://covid-19.ontario.ca/self-assessment/risk-factors>

Ontario COVID-19 Self-Assessment

In the last 14 days, have you been in close physical contact with a person who either:

- is currently sick with a new cough, fever, or difficulty breathing? Or
- returned from outside of Canada in the last 2 weeks? **YES/NO**

Close physical contact means:

- *being less than 2 metres away in the same room, workspace, or area for over 15 minutes*
- *living in the same home*

Have you travelled outside of Canada in the last 14 days? **YES/NO**

<https://covid-19.ontario.ca/self-assessment/risk-factors>

Taking Workers' Temperatures

Some employers have implemented temperatures screening for their employees before they enter the workplace. When doing so, employers should:

- advise employees in advance
- use the least intrusive method (non-contact infrared thermometers)
- only qualified people should administer the test and make sure it's done safely
- records should not be maintained for those who test in the normal temperature range
- be discrete for those who test above a level of concern (ask them to leave the workplace immediately)



Workers Must Self-Monitor

Employers must encourage their employees to monitor their own symptoms at all times

If employees have symptoms, they should self-isolate immediately at home and be kept separate from their co-workers

They must also be told who to contact at their workplace to advise them of their illness. If the employee does not have their own transportation, the employer should support them in arranging transportation home. They should not take public transit

Workers Who Contracted COVID-19

Any employee who has tested positive for COVID-19, should not be allowed to return to the workplace until they test negative and have completed a self-isolation period

They need to consult with their local public health office who will give them guidance on their return to work

Employer's Obligation to Report

If an employer is advised that a worker has COVID-19 due to an exposure at the workplace, the employer must notify the Ministry of Labour, Training and Skills Development in writing **within four days**.

The employer must also advise the:

- workplace joint health and safety committee
- health and safety representative
- trade union, if any

COVID-19 Risks

COVID-19 can be spread in two ways:

- person to person if they are in close contact
- when people touch their face with contaminated hands after touching surfaces or objects

The risk of getting COVID-19 is higher if you:

- interact with more people and work in close proximity to others
- working indoors is riskier than working outside
- spend time with potentially infected people

Social Distancing

In order to slow the spread of COVID-19, the government recommends **physical distancing** from other people

Keep a distance of at least **6 feet** (2 metres) from people you do not live with to slow the spread of the virus.

Restrictions In Office Space

Limit the number of employees and others (i.e. customers/ clients/suppliers) in the workplace

Stagger or alternate the days that workers are allowed in the workplace

Allow flexible work hours where start/finish times, breaks and lunches are staggered

Use video conferencing or telephone meetings rather than face-to-face client meetings

Restrictions In Office Space

Install physical barriers such as plexi-glass dividers between workers or between workers and customers

Install signage to mark 2 metre spacing to ensure that physical distancing is maintained

Reconfigure workspaces and floor plans to maximize physical distancing

Restrictions In Office Space

Limit the number of people who can use an elevator at the same time

Hold meetings in a large space or outside so that people are far apart

Where possible, workers should continue to work from home

Open doors to allow in and circulate fresh air

Restrictions In Office Space

Remove coffee makers, cutlery, mugs, etc. to prevent the sharing of food and beverages

Use taped arrows to indicate “one way” traffic in hallways

Remove chairs or tape off chairs in common area to promote physical distancing

Workplace Sanitation

Provide access to soap and water for routine handwashing

Place alcohol-based hand sanitizers at workstations or several locations throughout the workplace and ensure that they are refilled regularly

Schedule frequent and routine enhanced cleaning and disinfecting of surfaces in the workplace that have hand contact such as door handles, faucets, light switches, elevator buttons, toilet handles, keyboards and other shared office equipment

Workplace Sanitation

Remove items from common areas that are often shared and cannot be sanitized easily (e.g. magazines or newspapers)

Eliminate the need for workers to share equipment or tools (such as computer equipment or pens) if possible. If that's not possible, regularly clean and disinfect any shared equipment and tools, between users

Post signs in the workplace regarding proper hygiene

Personal Protective Equipment (PPE)

PPE can include face masks, gloves and eye protection

Public health recommends that people use a face mask in public to reduce the risk of spreading COVID-19 to other people when physical distancing is not possible

Personal Protective Equipment (PPE)

Employees must be trained on how to use PPE correctly (e.g. fit, use, putting it on and taking it off, maintenance, cleaning, disposal, limitations of PPE)

Businesses should encourage their customers and other visitors to wear face masks to protect their workers

Personal Protective Equipment (PPE)

Face masks are not an appropriate substitute for physical distancing in the workplace. Face masks will not protect workers from being exposed to or getting COVID-19

Face masks should cover an employee's mouth and nose. Employees should not touch their mask without washing or sanitizing their hands first

Employers should supply and pay for the PPE if they want their employees to use them

Safety Guidelines

The provincial government has released safety guidelines for businesses to follow as they reopen in order to protect their employees and customers

The guidelines can be found online at:

<https://www.ontario.ca/page/resources-prevent-covid-19-workplace>

Sector specific guidelines issued for manufacturing, construction, restaurant and food services, agriculture, retail, food processing and health care

Workplace Guide

The Ontario government also released a workplace guide to help employers who are reopening their businesses to:

- identify the risks for transmitting the virus
- determine what controls are needed to help mitigate the risk,
- create a workplace safety plan
- implement the plan in the workplace and update it as the situation evolves; and
- communicate the actions being taken to workers and other people entering the workplace

https://www.ontario.ca/page/develop-your-covid-19-workplace-safety-plan?_ga=2.256735689.379410419.1592842305-1041607071.1588011576

Federal Unpaid Statutory Leave

Canada Labour Code provides job protected leave for federally regulated employees for up to 16 weeks if an employee is unavailable or unable to work for reasons related to COVID-19

No medical note required

Employer may require the employee to provide a written declaration in the support of the leave

Ontario Unpaid Statutory Leave

Infectious Disease Emergency Leave under the *Employment Standards Act, 2000* (the "ESA")

Job protected leave

Right to reinstatement

No medical note required

Employer may require the employee to provide evidence that is reasonable in the circumstances (other than a medical note) at a time that is reasonable in the circumstances (eg. a note from a daycare that they are closed)

Ontario Unpaid Statutory Leave

Applies when the employee is under medical investigation, supervision or treatment for COVID-19

The employee is acting in accordance with an order under the *Health Protection and Promotion Act*

The employee is in isolation or quarantine in accordance with public health information or direction

The employer directs the employee not to work due to a concern that COVID-19 could be spread in the workplace

The employee needs to provide care to a person for a reason related to COVID-19 such as a school or day-care closure

The employee is prevented from returning to Ontario because of travel restrictions

The employee's hours of work are temporarily reduced or eliminated by the employer for reasons related to COVID-19

Temporary Layoffs

Under the ESA a temporary layoff can last:

- up to 13 weeks in any period of 20 consecutive weeks; or
- up to 35 weeks in any period of 52 consecutive weeks, as long as certain prescribed conditions are met (such as the employer continuing to pay premiums to continue group health benefit plans)

Recent Changes to ESA

On May 29, 2020, the provincial government published a new regulation that temporarily amends the treatment of temporary layoffs under the ESA for non-unionized workplaces in Ontario

Ontario Regulation 228/20: considers COVID-19-related temporary layoffs to be a statutory leave of absence

Recent Changes to ESA

The government's announcement is timely, as many employers were approaching the 13 week mark of the temporary layoff period for employees that were laid off due to the pandemic

These employers no longer need to worry about deemed terminations of employment occurring at the end of the 13 week layoff period, or 35 weeks (if certain criteria, such as continuation of group benefit coverage, are met)

Recent Changes to ESA

Employees will not be deemed to be on the Emergency Leave if they have already been given notice of notice of termination, or were dismissed or permanently laid off after March 1, 2020

Any employee complaints made to the Ministry of Labour claiming statutory termination pay and severance pay (if applicable) as a result of a reduction or elimination of hours or wages due to COVID-19, will be deemed to have not been filed

Recent Changes to ESA

The Regulation does not apply where an employee was temporarily laid off for a period longer than the period of temporary layoff permitted by the ESA (i.e. for 13 weeks) prior to May 29, 2020

The Regulation also does not apply if, before May 29, 2020, the employer constructively dismissed the employee and the employee resigned from his or her employment in response within a reasonable period

Workers Refusal to Return

Some employees may refuse to return to work due to fears of COVID-19 transmission

Employers may need to accommodate higher risk employees (older adults, people with weakened immune systems and people with medical conditions such as cancer, heart problems, lung disease, diabetes)

Workers Refusal to Return

Employees with childcare issues or caring for a sick relative may be eligible for job protected leaves (e.g. school closure or sickness due to COVID-19)

Employer may permit the employee to work from home, if it's feasible

CERB Benefits

Federal government announced that the Canada Emergency Response Benefit (“CERB”) program will be extended by eight weeks

CERB has provided payments of \$2,000/month for individuals who have been without work due to the COVID-19 pandemic

This extension will make the benefit available to eligible workers for up to a total of 24 weeks

The CERB extension will give many Canadians who are still out of work continued temporary relief as the economy reopens gradually through the summer months

CERB Benefits

CERB is available to workers who:

- live in Canada and are at least 15 years old
- have stopped working because of reasons related to COVID-19, or are eligible for EI regular or sickness benefits, or have exhausted their EI benefits between December 29, 2019 and October 3, 2020
- had income of at least \$5,000 in 2019, or in the 12 months prior to the date of their application
- have not earned more than \$1,000 in income per benefit period while collecting the CERB
- have not quit their job voluntarily

Questions?

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