



March 18, 2020

OABA Update # 3 - COVID-19 Government of Canada Announces Business Support Programs

OABA Communications with Government

Over the past several days, OABA has emphasized to both federal (AAFC) and provincial governments (OMAFRA) the extreme importance of keeping Canada's border open to the movement of goods during the response to the COVID-19 pandemic. The agri business sector is a primary supplier of essential services and products to Ontario's primary farm community, and serves as a critical link in the Ontario and Canadian agri-food value chain. It is imperative that the sector be considered as "essential" to Canada's ability to feed itself during these challenging times. Provisions must be made that will ensure that agri businesses are able to provide essential products and services that will allow Canadian farmers to produce the meat, milk, eggs, fruits, vegetables, grains, oilseeds, dry beans, etc. that are needed by Canadians during this pandemic response. To support this, OABA has submitted that Canada's borders **must** remain open for the import and export of agri-food products, and that other necessary steps be considered by government to ensure effective operation of the agri business sector.

Should you be contacted by representatives from the federal or provincial government, please ensure that you identify the following key OABA points:

- Agri business must be considered as 'essential' in the overall COVID-19 response, as we work to provide essential products and services to Ontario's farm community. Any supply chain disruptions could lead to animal welfare issues and a delayed planting season with serious implications for both the farm community and the public.
- Canada's and Ontario's borders must remain open to ensure the orderly movement of essential products as Ontario agriculture is dependent on imports and exports of goods.
- While agri business employers are being very flexible with remote work arrangements for staff, it must be recognized that a number of critical staff positions within the agri business sector simply cannot function from a remote location. It is imperative that any government policies/directives that may require or encourage workers to stay home must take this fact into consideration.

Government of Canada Update & Actions

Over the past week, the Government of Canada announced several actions to support Canadian businesses facing financial hardship as a result of the COVID-19 pandemic. On March 13, 2020, Minister of Finance Bill Morneau, Governor of the Bank of Canada Stephen Poloz, and

Superintendent of Financial Institutions Jeremy Rudin outlined a coordinated package of measures to support the functioning of markets, the resilience of our financial sector, and continued access to financing for Canadian businesses. These actions will significantly increase the availability of credit to businesses of all sizes, sustain liquidity in key financial markets, and provide flexibility to businesses experiencing hardship.

On March 18, 2020 the government and its partners announced further measures to support businesses. These actions are part of Canada's whole-of-government response to COVID-19, and the significant stimulus program developed to stabilize Canada's economy, support businesses and to protect Canadians.

Federal Support for Canadian Business

While details are somewhat incomplete at this time, the following is a brief overview of what the federal government has announced in response to the impact of COVID-19 on Canadian businesses, workers, and families. [Click here](#) for more detailed information of the federal government support programs.

Supporting Canadian Business through the Canada Account

The government is changing the Canada Account so that the Minister of Finance would now be able to determine the limit of the Canada Account in order to deal with exceptional circumstances. The Canada Account is administered by Export Development Canada (EDC) and is used by the government to support exporters when deemed to be in the national interest. This will allow the government to provide additional support to Canadian companies through loans, guarantees or insurance policies during these challenging times.

Helping Businesses Keep their Workers

To support businesses that are facing revenue losses and to help prevent lay-offs, the government is proposing to provide eligible small employers a temporary wage subsidy for a period of three months. The subsidy will be equal to 10% of remuneration paid during that period, up to a maximum subsidy of \$1,375 per employee and \$25,000 per employer. Businesses will be able to benefit immediately from this support by reducing their remittances of income tax withheld on their employees' remuneration. Employers benefiting from this measure will include corporations eligible for the small business deduction, as well as non-profit organizations and charities.

Flexibility for Businesses Filing Taxes

The Canada Revenue Agency will allow all businesses to defer, until after August 31, 2020, the payment of any income tax amounts that become owing on or after today and before September 2020. This relief would apply to tax balances due, as well as instalments, under Part I of the Income Tax Act. No interest or penalties will accumulate on these amounts during this period.

The Canada Revenue Agency will not contact any small or medium (SME) businesses to initiate any post assessment GST/HST or Income Tax audits for the next four weeks. For the vast majority of businesses, the Canada Revenue Agency will temporarily suspend audit interaction with taxpayers and representatives.

The Liaison Officer service offers help to owners of small businesses to understand their tax

obligations. Traditionally available in-person, this service is now available over the phone and will be customizing information during these challenging times by ensuring small businesses are aware of any changes such as filing and payment deadlines, proactive relief measures, etc.

Ensuring Businesses Have Access to Credit

The Business Credit Availability Program (BCAP) will allow the Business Development Bank of Canada (BDC) and Export Development Canada (EDC) to provide more than \$10 billion of additional support, largely targeted to small and medium-sized businesses. This will be an effective tool for helping viable Canadian businesses remain resilient during these very uncertain times. BDC and EDC are cooperating with private sector lenders to coordinate on credit solutions for individual businesses, including in sectors such as oil and gas, air transportation and tourism. The near-term credit available to farmers and the agri-food sector will also be increased through Farm Credit Canada.

Supporting Financial Market Liquidity

As a further proactive and coordinated measure to bolster the financial system and the Canadian economy, the government announced on March 16 that it is launching an Insured Mortgage Purchase Program (IMPP). Under this program, the government will purchase up to \$50 billion of insured mortgage pools through the Canada Mortgage and Housing Corporation (CMHC). This action will provide long-term stable funding to banks and mortgage lenders, help facilitate continued lending to Canadian consumers and businesses, and add liquidity to Canada's mortgage market. Details of the terms of the purchase operations will be provided to lenders by CMHC later this week.

Federal Support for Canadian Workers

Temporary Income Support for Workers and Parents

For Canadians without paid sick leave (or similar workplace accommodation) who are sick, quarantined or forced to stay home to care for children, the government is:

- Waiving the one-week waiting period for those individuals in imposed quarantine that claim Employment Insurance (EI) sickness benefits. This temporary measure is in effect as of March 15, 2020.
- Waiving the requirement to provide a medical certificate to access EI sickness benefits.
- Introducing the Emergency Care Benefit providing up to \$900 bi-weekly, for up to 15 weeks. This flat-payment Benefit would be administered through the Canada Revenue Agency (CRA) and provide income support to:
 - Workers, including the self-employed, who are quarantined or sick with COVID-19 but do not qualify for EI sickness benefits.
 - Workers, including the self-employed, who are taking care of a family member who is sick with COVID-19, such as an elderly parent, but do not qualify for EI sickness benefits.
 - Parents with children who require care or supervision due to school closures, and are unable to earn employment income, irrespective of whether they qualify for EI or not.

Application for the Benefit will be available in **April 2020**, and requires Canadians to attest that they meet the eligibility requirements. They will need to re-attest every two weeks to reconfirm their eligibility. Canadians will select one of three channels to apply for the Benefit:

1. by accessing it on their CRA MyAccount secure portal;
2. by accessing it from their secure My Service Canada Account; or
3. by calling a toll-free number equipped with an automated application process.

Longer-Term Income Support for Workers

For Canadians who lose their jobs or face reduced hours as a result of COVID's impact, the Government is:

- Introducing an Emergency Support Benefit delivered through the CRA to provide up to \$5.0 billion in support to workers who are not eligible for EI and who are facing unemployment.
- Implementing the EI Work Sharing Program, which provides EI benefits to workers who agree to reduce their normal working hour as a result of developments beyond the control of their employers, by extending the eligibility of such agreements to 76 weeks, easing eligibility requirements, and streamlining the application process. This was announced by the Prime Minister on March 11, 2020.

Flexibility for Taxpayers

In order to provide greater flexibility to Canadians who may be experiencing hardships during the COVID-19 outbreak, the Canada Revenue Agency will defer the filing due date for the 2019 tax returns of individuals, including certain trusts.

- For individuals (other than trusts), the return filing due date will be deferred until June 1, 2020. However, the Agency encourages individuals who expect to receive benefits under the GSTC or the Canada Child Benefit not to delay the filing of their return to ensure their entitlements for the 2020-21 benefit year are properly determined.
- For trusts having a taxation year ending on December 31, 2019, the return filing due date will be deferred until May 1, 2020.

The Canada Revenue Agency will allow all taxpayers to defer, until after August 31, 2020, the payment of any income tax amounts that become owing on or after today and before September 2020.

Ontario Government Declares “Emergency” in Response to COVID-19

On March 17, 2020, the Ontario government declared an emergency as a result of COVID-19. It ordered the immediate closure of a number of venues, as well as enhanced funding for the province's response to COVID-19. Further to the declaration of emergency, the government ordered the immediate closure of the following establishments:

- facilities providing indoor recreational programs
- public libraries
- private schools as defined in the Education Act
- licensed child care centres
- bars and restaurants, except to the extent that such facilities provide takeout food and delivery
- theatres including those offering live performances of music, dance, and other art forms, as well as cinemas that show movies
- concert venues.

The government has prohibited all organized public events of over 50 people, including parades, events and communal services within places of workshop. These orders are to remain in place until **March 31, 2020**, at which point they will be reassessed.

What Does a Declared Emergency Mean?

Under the *Emergency Management and Civil Protection Act* (EMCPA), “Emergency” is defined to include “a disease or other health risk,” which would include COVID-19. It should be noted that failure to comply with orders under the EMCPA can result, in the case of an individual, in a fine of not more than \$100,000 and a term of imprisonment of not more than one year. An individual who is a director or officer of a corporation may be subject to a fine of not more than \$500,000 and a term of imprisonment of not more than one year. Corporations may be subject to a fine of not more than \$10,000,000.

Ontario’s Employment Standards Act, 2000 – Declared Emergency Leave

The Employment Standards Act, 2000 (ESA) provides for a leave of absence in a declared emergency (which occurred on March 17, 2020). Subject to the criteria set out below, employees may be able to claim entitlement to an unpaid “Declared Emergency Leave.” This leave gives employees the right to a leave of absence where an employee is unable to perform the duties of their own position because of a declared emergency.

To qualify for entitlement under these provisions of the ESA, employees must be unable to work because:

1. they are subject to an order under the EMCPA
2. they are subject to an order under the Health Protection and Promotion Act (HPPA)
3. they are needed to provide care or assistance to a specified individual, or
4. such other reasons as may be prescribed.

With respect to the Item # 1 above, on March 17, 2020, the government ordered that certain venues be closed. Employees of these establishments will be entitled to take an unpaid job-protected leave of absence. In order to access this leave, employees are required to notify their employer that they are taking a Declared Emergency Leave, although a failure to notify will very likely not disentitle the employee from the leave.

Item # 2 above relates to section 22 of the HPPA, which gives medical officers of health the power to order individuals to take, or refrain from taking, any action specified in such orders. These orders can be quite broad and can include: orders to be quarantined, orders to submit to an examination by a physician, or orders to conduct oneself in such a manner so as not to expose another person to infection.

Item # 3 above applies to the same list of employees covered under the family responsibility leave:

- The employee’s spouse.
- A parent, step-parent or foster parent of the employee or the employee’s spouse.
- A child, step-child or foster child of the employee or the employee’s spouse.
- A grandparent, step-grandparent, grandchild or step-grandchild of the employee or of the employee’s spouse.
- The spouse of a child of the employee.
- The employee’s brother or sister.
- A relative of the employee who is dependent on the employee for care or assistance.

For example, employees who are unable to work in order to provide care to their children in light of the orders closing daycares, could be entitled to take an unpaid Declared Emergency Leave.

A Declared Emergency Leave generally ends the day the declared emergency is terminated or disallowed. The employee's right to the leave will usually end at the same time. This is subject to a few exceptions, including where an employee is exercising the right to Declared Emergency Leave to care for a specified individual. The ESA prohibits reprisal against employees for accessing Declared Emergency Leave, as it does with the other job-protected leaves under the ESA. Declared Emergency Leaves are subject to all of the usual ESA protections granted to employees on leaves including, for example, benefits continuation during the leave if the employee continues to pay their portion of the premiums.

If an employer is contemplating a temporary layoff, consideration must be given to how the layoff will interact with the employer's obligations to provide statutory leaves under the ESA. Generally speaking, employees who are entitled to a leave of absence under the ESA cannot be laid off while they are entitled. This issue can be quite complex to address, and employers are encouraged to seek legal advice before making a decision to issue layoff notices.

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