

Infectious Disease Emergency Leave Demystified

- What is Infectious Disease Emergency Leave (IDEL) & How it can impact your workforce
- How it applies to Layoffs and Terminations
- What benefits Employers are required to provide
- Best practices for moving forward & returning to work



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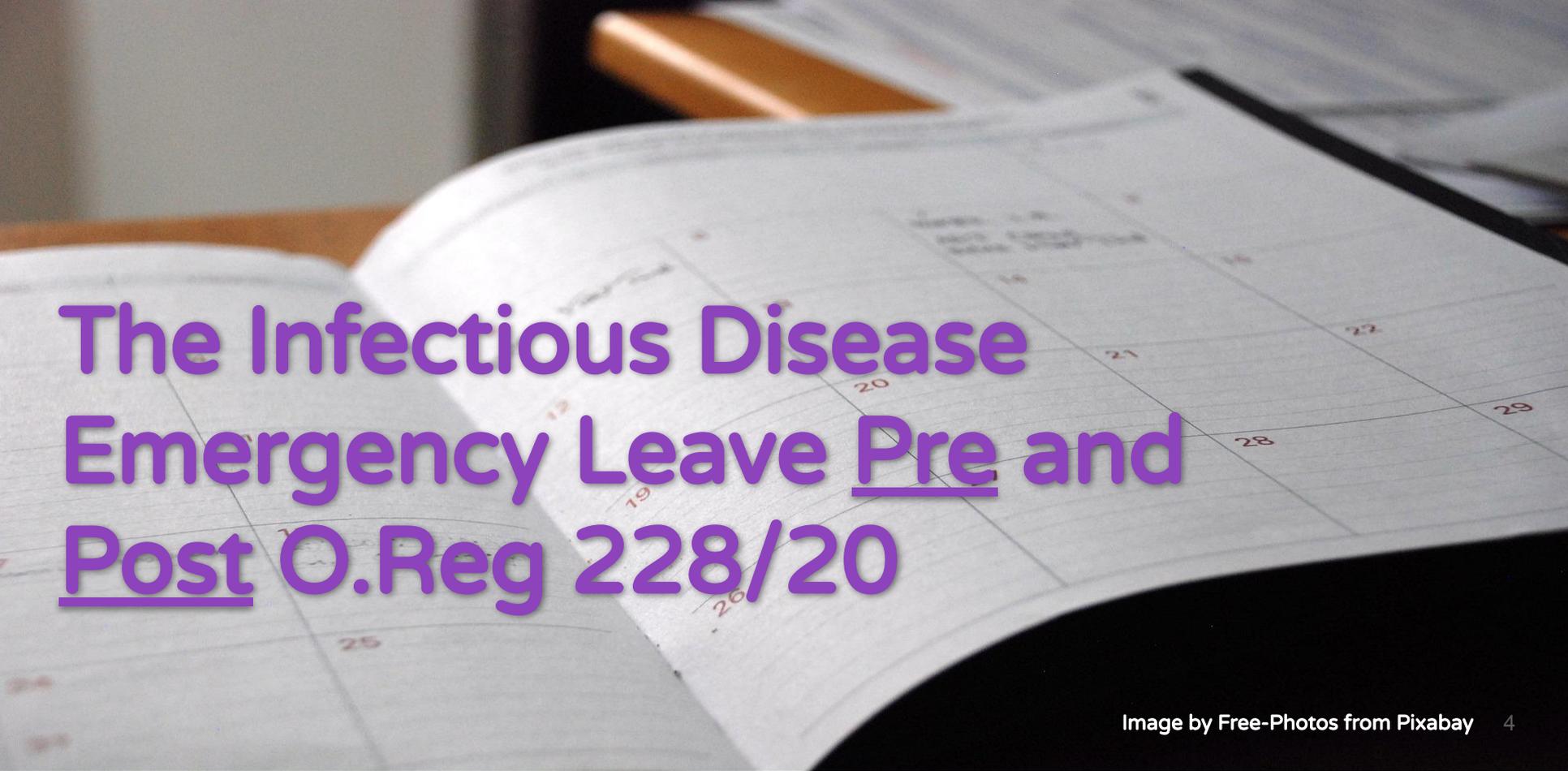
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Presentation Roadmap

1. Infectious Disease Emergency Leave (IDEL)
2. The COVID-19 Period and State of Emergency - What Does It Mean for Your Business?
3. Layoffs and Terminations - Pre and Post O.Reg 228/20
 - a. Impact on Existing & Future Layoffs and Terminations
 - b. Distinction Between Deemed IDEL and Voluntary IDEL
 - c. Constructive Dismissal Claims
4. Employee Benefits and the IDEL
5. Best Practices for Returning to Work & Thinking Ahead
6. Takeaways



The Infectious Disease Emergency Leave Pre and Post O.Reg 228/20

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Infectious Disease Emergency Leave

Pre O.Reg 228/20

Job protection for employees who need to be off work for COVID-19 related reasons

- Illness
- Caregiver duties
 - For someone ill
 - For children where daycare and school is closed
- Quarantine due to illness, exposure, travel

Deemed Infectious Disease Emergency Leave Post O.Reg 228/20

- Same as before AND
- Employees whose hours of work are temporarily reduced or eliminated by the employer for reasons related to the designated infectious disease are **DEEMED** to be on an IDEL for the COVID-19 Period

The Covid-19 Period and the Current State of Emergency

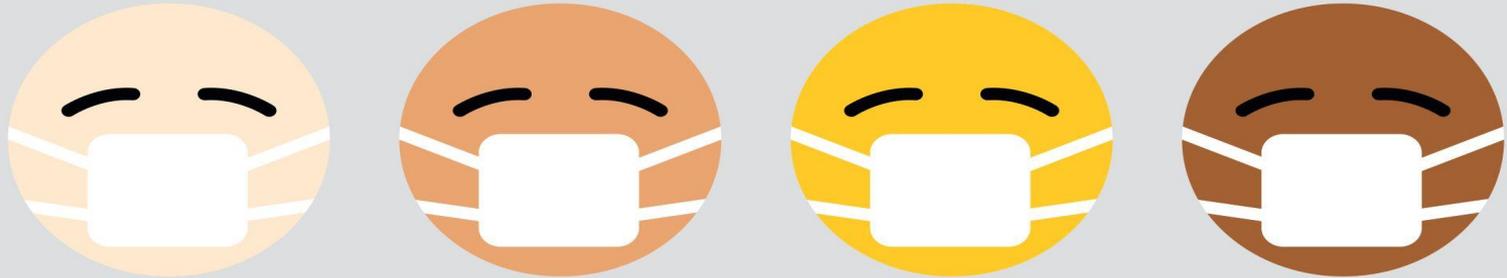


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The Covid-19 Period

- “COVID-19 Period” means the period beginning on March 1, 2020 and ending on the date that is six weeks after the day that the emergency declared by Order in Council 518/2020 (Ontario Regulation 50/20) on March 17, 2020 pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act* is ended.

Current State of Emergency

- Was June 30, Just Extended yesterday to July 15

What Does This Mean for Your Business?

- Layoff timelines no longer apply
- Risks to the employer lessened



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Layoffs, Terminations and O.Reg 228/20



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Layoff Timelines Pre O.Reg 228/20

- Layoffs could last 13 weeks or 35 weeks if benefits or other payments were continued
- At the end of this timeline, the employee is deemed to be terminated

Layoffs/Hours Reductions

Post O.Reg 228/20

- Layoffs replaced by the deemed IDEL - last as long as the Covid-19 Period
- Following the Covid-19 Period, employers could then institute normal layoffs and keep employees off work for longer

Impact on Existing Layoffs

- These layoffs are no longer layoffs
- Deemed IDEL
- Last for as long as the COVID-19 Period

Impact on Future Layoffs and Terminations

- **New temporary reductions in hours = deemed IDEL and not layoffs**
- **Can still terminate employees for legal reasons, but watch for the distinction between a DEEMED IDEL and a VOLUNTARY IDEL**

Distinction Between Deemed IDEL and Voluntary IDEL

- Deemed = can terminate, will end at the end of the Covid-19 Period
- Voluntary = job protections will end when the circumstances that put the employee on the leave end (eg. the kids go back to school)

Constructive Dismissal Claims

- **O.Reg 288/20 Eliminates constructive dismissal under the ESA for**
 - Hours reductions
 - Pay reductions
- **Change must be temporary**
- **Employees still have common law rights (if the matter went to Court)**

Common Questions Employers are Asking

- What if we don't have a layoff section in the employment contract?
 - Can I lay off the employee anyways?
- Is there still constructive dismissal?
- Should we continue benefits during the layoff?
- Are we required to provide a specific benefit or to just pay a premium for a benefit?
- What if our employee handbook is silent on layoffs?

Employee Benefits and the IDEL

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Benefits during a Layoff

- **If continuing benefits:**
 - Can we continue only some of the benefits?
 - Must employees continue to pay their portion of the benefits?
 - What if the employee refuses?
 - How do we receive employee premium payments during a layoff?
- **If not continuing benefits:**
 - Do we give notice like a regular benefits change?
 - What if an employee gets sick while on layoff but has no access to benefits?

Benefits for Employees on the IDEL

- For employees whose hours were reduced prior to May 29 (laid off employees) and whose benefits were not continued = do not have to reinstate benefits
- For employees going on the IDEL after May 29 continue benefits
- For employees who were voluntarily on the IDEL prior to May 29 continue benefits

Benefit Services During COVID-19

- **How do we handle inquiries and complaints about benefit costs without access to in-person services?**
 - Certain Insurance Providers are accepting receipts for virtual appointments such as Dietitian, Naturopath, Occupation Therapist, Optometrist, Physiotherapist, Psychologist, Social Worker, Speech Therapist
- **Are employers required to cover costs for employees working in home offices? Are they covered under our benefits plan?**

Checklist



Yes



No

Best Practices for Returning to Work & Thinking Ahead

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Best Practices for Return to Work

- As things start to open back up, businesses are considering what that looks like for them
- Have a back to work policy, many guides and resources available online to ensure safety and wellness
- If you have employees who will not be returning considering obtaining legal advice before terminating

Working During COVID-19

- If we are an essential service required to remain open, what risk do we have if an employee tests positive for COVID-19?
- Can our employee claim WSIB benefits if they test positive for COVID-19?
- Are there other benefits to consider for employees exposed to COVID-19? STD or LTD benefits?
- Will my employee have a travel insurance claim if they contract COVID-19 while on a work trip?

Scenarios

- What if our employee does not want to return to work because they are sick?
- What if our employee wants to collect the CERB and not come back?
- We're laid off the full office - how do we handle benefits for employees out on a parental or sick leave?

Thinking ahead

- As we move past COVID-19 what's next?
- The new normal... ???
- Part 2 of the Pandemic: the mental health crisis affecting our workforce
 - How will this impact benefits?
 - How to get ahead of this curve and strive for wellness

Takeaways

- Important to pay attention to the *type* of IDEL
- Continuing benefits allows a longer layoff runway
- Important to keep track of timelines that apply to your staff



DANKE!
THANK YOU!
MERCI!
GRAZIE!
GRACIAS!
DANK JE WEL!

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Questions?

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Thank you!