

COVID-19 PRESENTATION

Christopher McHardy and Donovan Plomp

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WORKPLACE HEALTH AND SAFETY

OH&S PRECAUTIONS

- **Cleaning:** Consider increasing routine cleaning practices – if you are cleaning and disinfecting frequently touched surfaces once a day, move to twice a day using the products you already use.
- **Space:** Consider the density of your business and provide additional space for customers and employees to interact; for example, consider how line ups or seating could be expanded so that people are able to put some distance – 1 to 2 metres – between one another.
- **Hand hygiene:** Ensure your washrooms remain stocked with soap and consider offering hand sanitizer at entrances.
- **Communication:** Show your customers, clients, members, and employees what you are doing to support the efforts to slow transmission of this virus by communicating online and at your place of business.
- **Employees who feel unwell:** Support your employees to stay home if they are sick.

OH&S – EMPLOYEES WHO TRAVEL

- The federal government advises that individuals avoid all non-essential travel outside of Canada until further notice
 - 14 days self-isolation does not apply to service workers for whom travel outside the country is essential (e.g. cross-border trucking, airline crew, Clipper or Coho staff, film industry staff or other people who work in BC and travel to the US for work)
 - All workers who travel outside the country for essential services are required to self-monitor daily
 - If a worker who has travelled outside the country develops symptoms, they should self-isolate and contact 811

CURRENT GUIDANCE: TESTING

People who do not need to be tested for COVID-19 include:

- People without symptoms
- People who have mild respiratory symptoms that can be managed at home
- Returning travelers

People who should be tested:

- People with respiratory symptoms who are hospitalized or likely to be hospitalized
- Health care workers
- Residents of long-term care facilities
- Part of an investigation of a cluster or outbreak

WORKSAFEBC – CURRENT EMPLOYER GUIDANCE

- Assess whether workers need to come to work. If practicable, employers should:
 - Curtail non-essential work at the workplace
 - Consider having workers work remotely
- Ensure the following workers do not come to work:
 - If they are ill
 - If they have COVID-19
 - If they have travelled internationally
 - If they have been in contact with a person infected with COVID-19

WORKSAFEBC – CURRENT EMPLOYER GUIDANCE CONT'D

- If it is necessary for workers to come to work, employers should take steps to reduce the risk of exposure to COVID-19 by:
 - Reconfiguring the workplace to maintain appropriate distance between workers
 - Limiting worker participation in in-person gatherings and encouraging teleconferences as an alternative
 - Limiting worker travel
 - Educating workers on health and safety measures to prevent transmission of infectious diseases

WORKSAFEBC – EMPLOYER GUIDANCE CONT'D

- Develop a health and safety policy for working from home. At a minimum, this policy should require employees to conduct an assessment of their workplace and report any hazards to their manager
- It can also:
 - Contain protocols for evacuating from the home or temporary workplace to a safe location if needed and how to contact the employer in case of emergency
 - Discuss safe workplace practices and how to report any work-related incidents or injuries (i.e. outline the role of the worker's supervisor)
 - Discuss ergonomic considerations

WORKSAFEBC – EMPLOYEE GUIDANCE

- Know when not to come to work
 - If ill, whether or not that illness has been confirmed as COVID-19
 - If they have travelled internationally, they must remain away from the workplace for at least 14 days
 - If they have an ill person in their home
 - If they share a residence with someone exposed to COVID-19
- If entering the workplace:
 - Comply with the employer's instructions around minimizing exposure to COVID-19
 - Wash hands frequently, and/or use hand sanitizer
 - Take steps to minimize exposure to COVID-19 while away from work

WORKSAFEBC – RIGHT TO REFUSE WORK

- Right to refuse work
 - Workers have the right to refuse work if they believe it presents as undue hazard
 - An “undue hazard” is an “unwarranted, inappropriate, excessive or disproportionate” risk, above and beyond the potential exposure a general member of the public would face through regular, day-to-day activity
 - Employers need to consider the refusal on a case by case basis
 - See Occupational Health and Safety Guideline G3.12 for more information

BC GOVERNMENT INITIATIVES AND LEGISLATIVE AMENDMENTS

BC LEGISLATIVE OVERVIEW: EMERGENCY POWERS

- Two key pieces of legislation:
 - The *Public Health Act*,
SBC 2008, c 28
(the “PHA”)
 - The *Emergency Program Act*,
RSBC 1996, c 111
(the “EPA”)



PUBLIC HEALTH EMERGENCY

- On March 17, 2020, Dr. Bonnie Henry, BC's Provincial Health Officer ("PHO"), declared a "public health emergency" under the PHA
 - The PHA addresses current and emerging public health issues
 - The PHA provides the Minister of Health, public health officials and others with tools to respond to public health emergencies, including powers to gather information, conduct inspections and issue orders

STATE OF EMERGENCY

- On March 18, 2020, BC declared a “state of emergency” under the *Emergency Program Act* (“EPA”)
 - The EPA is the legislative framework for managing disasters and emergencies in BC
 - Under the EPA, the Lieutenant Governor in Council (Cabinet) may declare a state of emergency relating to all or any part of BC

CURRENT BC RESTRICTIONS

March 16

1. Order re mass gatherings

- Owners, occupiers and operations of places at which large numbers of people gather prohibited from permitting the gathering of 50+ people at those places
- Order expires May 30, 2020 unless otherwise cancelled, revised or extended

2. Order re casinos

- The BC Lottery Corporation ordered all casinos to close

BC RESTRICTIONS

March 17

1. Order re travelers

- Every person in BC who travelled outside Canada and returned to Canada on or after March 12, 2020 must self-isolate for 14 days
 - Do not leave, other than for essential errands (obtaining medication or food, if otherwise impossible for them to be delivered) or critical appointments that cannot be postponed or held electronically
 - If COVID-19 symptoms develop, wear a mask or cover nose and mouth with tissues and avoid contact with others
 - Comply with orders about medical testing
- Order does not expire

BC RESTRICTIONS

March 17, 2020

2. Order re schools

- K-12 learning in all classrooms suspended
- Every student eligible to graduate Grade 12 this year will do so
- A decision on when and how to return will be made in partnership with school districts and independent schools

BC RESTRICTIONS

March 19, 2020

1. Employers reminded to excuse workers for sickness without requiring a doctor's note

BC RESTRICTIONS

March 20

1. Order re: food and drink service and nightclubs

- Restaurants ordered to move to delivery or take-out options only, or close
- All Liquor Primary License holders that provide snacks or appetizers but not meals required to close
- Order expires May 30, 2020 unless otherwise cancelled, revised or extended

2. MSP coverage waiting period waived

- People moving back to BC from COVID-19 areas or from out of province do not need to wait before becoming eligible for coverage

BC RESTRICTIONS

March 21

1. Order re: personal service establishments

- personal service establishments (barbershops, salons, nail estheticians, health spas, massage parlours, tattoo shops and others) ordered to close

AMENDMENTS TO BC EMPLOYMENT STANDARDS ACT

March 23 – Bill 16, Amendments to the Employment Standards Act passed

- Introduces a permanent 3 day unpaid sick leave
- Introduces a temporary unpaid COVID-19 leave

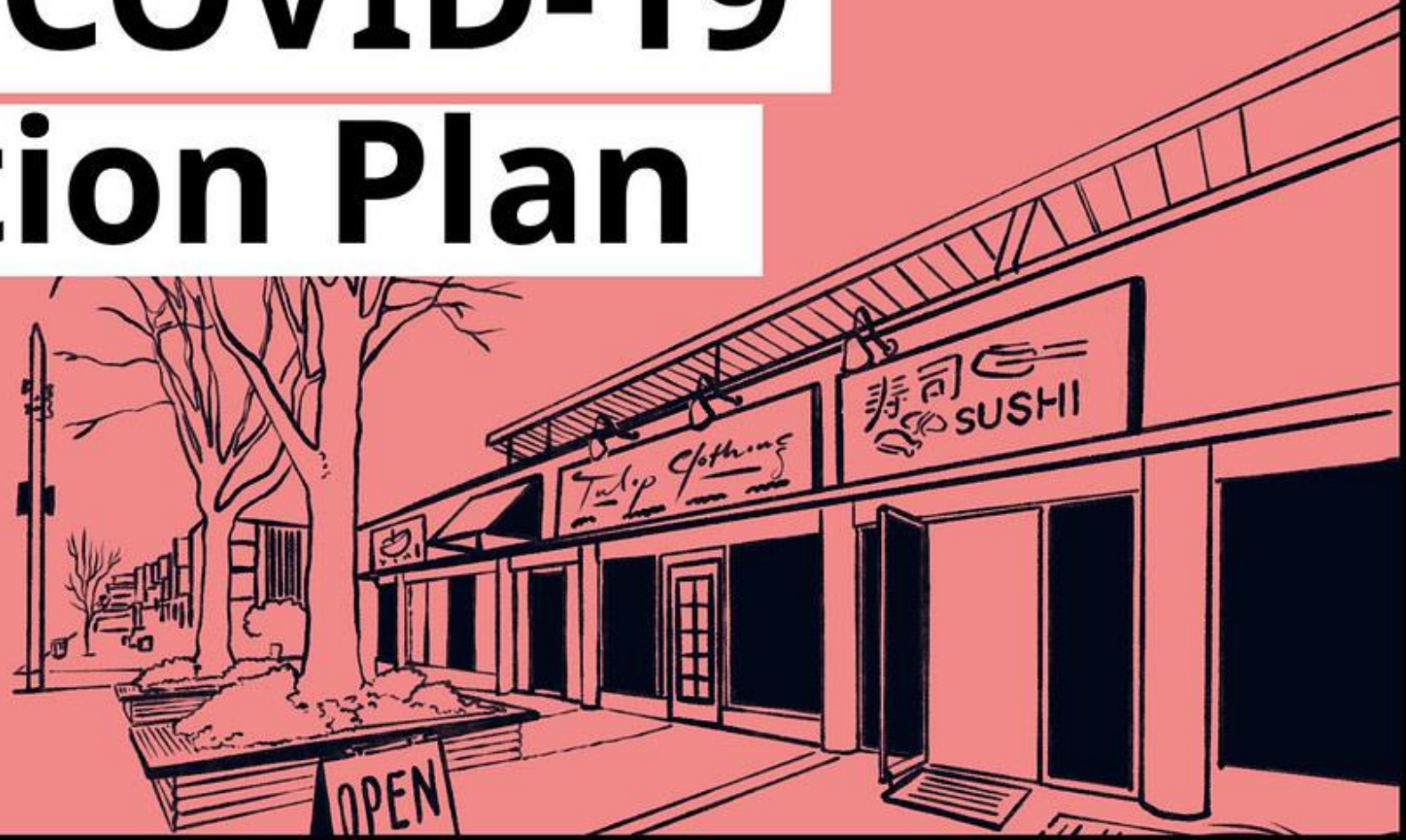
COVID-19 LEAVE

- The COVID-19 leave is for as long as the relevant circumstances apply, for employees who:
 - has been diagnosed with COVID-19 and is acting in accordance with the instructions or an order of a medical health officer, or the advice of a medical practitioner, nurse practitioner or registered nurse;
 - are in quarantine or self-isolation in accordance with the order of the public health officer, an order made under the Quarantine Act, guidelines of the British Columbia Centre for Disease Control, or guidelines of the Public Health Agency of Canada;
 - are directed by their employer to not work because the employer is concerned about their exposure to others;
 - are providing care to an eligible person including because of the closure of a school or daycare;
 - are outside the province and cannot return because of travel restrictions; or
 - or other prescribed circumstances.

COVID-19 LEAVE

- Employees only have to request the leave, mechanics are to be worked out between the employee and employer, but a medical note is not required
- The leave is retroactive to January 27, 2020
- If an employer terminated an employee on or after January 27, 2020 but before this section came into force, due to a circumstance described above applying to the employee, the employer must offer the employee re-employment in the same or a comparable position and, if the employee is re-employed, the employee's absence from employment following the termination is deemed to be a leave this section. The employer's obligation to rehire does not apply to employees who met a prescribed circumstances after this section came into force.
- The government can add more groups of people protected by the leave as the situation evolves
- The COVID-19 sections can be revoked by an order in council

BC COVID-19 Action Plan



BC COVID-19 ACTION PLAN

- On March 23, 2020, the BC Government announced a \$5 Billion Action Plan. It addresses:
 - \$1.7 billion in investment in critical services so that people have access to services they need (healthcare, housing, those on income and disability assistance, individuals and families, businesses)
 - \$1.1 billion in funding as relief to workers and their families
 - Emergency benefit for workers: 1 time tax free \$1,000 payment to workers in BC whose ability to work has been affected by the outbreak, available in May 2020
 - available to BC'ers eligible for EI as a result of COVID-19's impact, eligible for the new federal emergency care benefit and the new federal emergency support benefit (will add to those federal supports)
 - will also support those who may not traditionally qualify for EI, other than under the expanded definition for COVID-19 (e.g. parents at home with children because of schools being closed or childcare; those who are self-employed)
 - \$2.2 billion in business and recovery funds

BC COVID-19 ACTION PLAN

- BC Housing has asked for landlords' cooperation in putting in place a temporary moratorium on evictions of tenants in subsidized and affordable housing during the COVID-19 outbreak
- BC Hydro clients can defer their bill payments or arrange for flexible payment plans with no penalty
- ICBC will allow for more renewals online or over the phone

BC COVID-19 ACTION PLAN

- Many provincial business tax filings can be deferred to September 30, 2020
 - Payment of PST, municipal/regional tax, carbon tax, motor fuel tax, tobacco tax, employers' health tax
 - Delay expansion of PST registration requirements (on e-commerce services and sweet/carbonated drinks)
 - Delay increase of carbon tax due to increase on April 1, 2020
 - Will review timing of all taxes by September 30, 2020
- Commercial and industrial properties in Class 4 will have taxes rate cut in half for 2020 tax year

FEDERAL GOVERNMENT INITIATIVES AND LEGISLATIVE AMENDMENTS

FEDERAL GOVERNMENT INITIATIVES

- EI sickness benefits
- Improved access to EI and the Emergency Support Benefit
- Extended Work-Sharing Program
- Small business wage subsidy
- Business Credit Availability Program
- More time to pay income taxes

EMPLOYMENT INSURANCE BENEFITS

- Improved access to Employment Insurance Sickness Benefit
 - 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 requirement to provide a medical certificate to access EI sickness benefits.
 - Waiver of one-week waiting period before benefits begin
- No change yet to regular EI benefits

EMERGENCY CARE BENEFITS

- The new Emergency Care Benefit provides up to \$900 bi-weekly, for up to 15 weeks to be administered through the Canada Revenue Agency (CRA) and provide income support to:
 - Workers who are quarantined or sick with COVID-19 but do not qualify for EI sickness benefits.
 - Workers 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 or daycare 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 require Canadians to attest that they meet the eligibility requirements.

EXTENDING THE WORK SHARING PROGRAM

- The EI Work Sharing Program 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.

SMALL BUSINESS WAGES SUBSIDIES

- Small business employers, non-profit organizations or charities are eligible for 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.

BUSINESS CREDIT AVAILABILITY PROGRAM

- 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.
- 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.

MORE TIME TO PAY INCOME TAX

- All businesses can defer payment of any income tax amounts that becoming owing between now and September, 2020
- This relief applies 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 CRA 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.

WORKFORCE CHALLENGES RELATING TO COVID-19

KEY CHALLENGES FACED BY EMPLOYERS

- Operations untenable in light of medical guidelines and good corporate citizenship
- COVID-related decline in business
- Managing risk of liability and ability to restart in future
- Mandatory shutdown

STATUTORY CONSIDERATIONS: *Employment Standards Act*

- "temporary layoff" means
- (a) in the case of an employee who has a right of recall, a layoff that exceeds the specified period within which the employee is entitled to be recalled to employment, and
- (b) in any other case, a layoff of up to 13 weeks in any period of 20 consecutive weeks;
- "week of layoff" means a week in which an employee earns less than 50% of the employee's weekly wages, at the regular wage, averaged over the previous 8 weeks.

POTENTIAL STATUTORY LIABILITY

- Employee's whose employment has been terminated is entitled to termination payment under the BC ESA, and may be entitled to additional contractual or common law entitlements.
- Under the ESA (S. 63 and 64) employees can be entitled to individual termination entitlements (up to 8 weeks of notice or pay in lieu), and, if more than 50 employees' employment is terminated, additional group termination notice/pay.

CONTRACTUAL CONSIDERATIONS

- “Constructive Dismissal” includes a unilateral change to a fundamental term of employment
- Consider contractual provisions and policies
- Different considerations for unionized employees (consider specific collective agreement provisions)
- Successful constructive dismissal claim will result in employee being awarded damages as if their employment was terminated by the employer without notice

OPTIONS TO MANAGE

- Consent (mutual agreement with consideration)
- Reduction of hours and/or wages, voluntary and unilateral
- Recall of employees
- Supplemental Unemployment Benefit Program and Work Sharing Programs
- Consider exception under s. 65(1)(d) of *ESA* for employed under an employment contract that is “impossible to perform due to an unforeseeable event or circumstance”.

QUESTIONS?