

## COVID-19 PROVINCIAL PAID EMERGENCY LEAVE

May 31, 2021

*This information is solely for informational purposes.*

*We urge you to consult with us at [info@connectingottawa.com](mailto:info@connectingottawa.com) if you have any specific legal questions about a client's situation.*

<p><b>WHAT IS PAID INFECTIOUS DISEASE EMERGENCY LEAVE?</b></p>	<p>On April 29, 2021 (see Note 1), the Ontario Government amended the <i>Employment Standards Act, 2000</i> (ESA) to require employers to provide employees with <b>up to three days</b> of paid infectious disease emergency leave for certain reasons related to COVID-19. This entitlement is in addition to employees' rights to unpaid infectious disease emergency leave (see other information sheet on Infectious Disease Emergency Leave for more information), and is available until September 25, 2021.</p> <p><i>Note 1: Although the ESA was amended on April 29, 2021, the entitlement to paid infectious disease emergency leave is deemed to have started on April 19, 2021. Eligible employees who took an unpaid infectious disease emergency leave between April 19, 2021 and April 28, 2021, for a reason for which they can take paid leave, can choose to take those days as paid leave instead. To make this decision, employees must have advised their employer in writing no later than May 12, 2021.</i></p>
<p><b>WHAT ARE THE REASONS FOR TAKING PAID INFECTIOUS DISEASE EMERGENCY LEAVE?</b></p>	<p>An employee can take paid infectious disease emergency leave for these reasons:</p> <ul style="list-style-type: none"> <li>• Going for a COVID-19 test</li> <li>• Staying home awaiting the results of a COVID-19 test</li> <li>• Being sick with COVID-19</li> <li>• Getting individual medical treatment for mental health reasons related to COVID-19</li> <li>• Getting vaccinated and/or experiencing a side effect from a COVID-19 vaccination</li> <li>• Having been advised to self-isolate due to COVID-19 by an employer, medical practitioner, or other specified authority</li> <li>• Providing care or support to certain relatives for COVID-19 related reasons, such as when they are sick with COVID-19 or have symptoms of COVID-19, or are in self-isolation due to Covid-19 on the advice of a medical practitioner or other specified authority.</li> </ul>
<p><b>WHO IS ELIGIBLE FOR PAID INFECTIOUS DISEASE EMERGENCY LEAVE?</b></p>	<p>These three paid sick days are only for employees who are covered by the <i>ESA</i>. Therefore, independent contractors, self-employed persons, and federally-regulated employees do not qualify for them (see Note 2). An employee <u>cannot</u> take these three paid sick days if they already have paid sick days from their employer (see Note 3).</p> <p><i>Note 2: An independent contractor or self-employed person may be eligible for the Canada Recovery Sickness Benefit.</i> <i>Note 3: Employees with paid leave under their employment contract (which includes a collective agreement) may not be eligible for paid infectious disease emergency leave or may be entitled to fewer than three days of paid infectious disease emergency leave. Certain criteria must be met for an employee's three-days of ESA paid leave to be reduced. Where all four criteria are met, the employee's three-day entitlement to paid infectious disease emergency leave is reduced by the number of days left under their employment contract: <a href="https://www.ontario.ca/en/working/ontario-covid-19-worker-income-protection-benefit">Ontario COVID-19 Worker Income Protection Benefit   Ontario.ca</a>.</i></p>
<p><b>WHAT IS THE PAYMENT AMOUNT?</b></p>	<p>Employers are generally required to pay employees the wages they would have earned had they not taken the leave, up to \$200.00 a day for up to three days. The three days do not have to be taken consecutively (see Note 4).</p> <p><i>Note 4: Vacation pay is payable on paid infectious disease emergency leave.</i></p>
<p><b>DOES AN EMPLOYEE HAVE TO PROVIDE A DOCTOR'S NOTE?</b></p>	<p>Employers cannot require a certificate from a doctor or nurse as evidence. However, an employer may require evidence that is reasonable in the circumstances at a time that is reasonable in the circumstances. What is considered reasonable in the circumstances depends on the facts of the situation, and evidence may take many forms, including:</p> <ul style="list-style-type: none"> <li>• A copy of information issued to the public by a public health official advising of quarantine or isolation</li> <li>• A copy of an order to isolate that was issued to the employee under s. 22 or s. 35 of the <i>HPPA</i></li> <li>• An email from a pharmacy or from a public health department indicating the employee's appointment date and time to receive a COVID-19 vaccination</li> </ul>
<p><b>WHO PAYS FOR PAID INFECTIOUS DISEASE EMERGENCY LEAVE?</b></p>	<p>An employer pays an employee for these sick days – the employee does not have to apply to the government for them. All an employee has to do is tell their employer they are taking paid infectious disease emergency leave. The employer then applies for a refund from the Workplace, Safety and Insurance Board (WSIB) (see note 5).</p> <p><i>Note 5: The WSIB is administering this program on behalf of the provincial government. This is not a WSIB program.</i></p>
<p><b>WHAT IF THE EMPLOYER DOESN'T PAY?</b></p>	<p>The <i>ESA</i> now says that an employer <b>must</b> pay employees for these sick days. If they refuse to pay, they are breaking the law. If this happens, an employee can file a complaint with the Ministry of Labour (see Note 6).</p> <p><i>Note 6: Information on making a claim is explained at Steps to Justice: <a href="https://www.steps-to-justice.com/en/working/how-do-i-make-an-employment-claim-with-the-ministry-of-labour">How do I make an employment claim with the Ministry of Labour? - Steps to Justice</a>.</i></p>

**FOR MORE INFORMATION ON INFECTIOUS DISEASE EMERGENCY LEAVE PAY:**  
[Ontario COVID-19 Worker Income Protection Benefit | Ontario.ca](https://www.ontario.ca/en/working/ontario-covid-19-worker-income-protection-benefit)