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Last week, the provincial government announced its plan to re-open the provincial economy. The plan is built on a methodical and phased-in approach to slowly lifting restrictions on businesses and services. The lifting of restrictions will be implemented in five phases via public health orders with the timing dictated by evidence of transmission of the COVID-19 virus.

Phase One of the plan will commence Monday, May 4, with the re-opening of medical services, such as dentistry, optometry, physical therapy, optician services, podiatry, occupational therapy and chiropractic treatment. Golf courses, provincial parks and campgrounds will also re-open.

Phase Two is anticipated to commence on May 19 and will include the re-opening of a variety of retail businesses and select personal services, such as hairdressers, registered massage therapists, acupuncturists and acupressurists.

The remaining phases include the opening of remaining personal services, restaurants and licensed establishments, fitness facilities and childcare facilities and both indoor and outdoor recreation and entertainment facilities. Anticipated implementation dates for these phases are yet to be determined.

Preparing to Re-Open Your Business

Those who operate businesses that will be permitted to re-open will want to consider how they will operate in light of current social distancing requirements.

In March, the provincial government amended *The Saskatchewan Employment Act* in response to the COVID-19 pandemic to permit employers to temporarily lay off staff for up to 12 weeks within a 16 week period prior to triggering the obligation to provide pay in lieu of notice of termination of employment. This remains permissible during a public health emergency period, which will continue to exist while an order of the chief medical health officer is in place.

My Business is Allowed to Re-open...Do I have to Recall Staff who have been Laid Off?

As long as there is an order of the chief medical officer in place regarding the COVID-19 public health emergency, the new temporary layoff rules continue to apply. Employers who have laid off staff and will be re-opening will need to determine staffing requirements and consider which employees will be recalled and when.



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If your workplace is not unionized, the employer can determine which employees will be recalled and in what order. Unionized employers will have to comply with any applicable provisions in their collective agreement. In either case, employers will want to ensure that layoffs do not exceed 12 weeks within any 16 week period, which will trigger the statutory notice requirements.

Employers will want to carefully consider the content of any public health orders as they are released to determine how they impact their operations.

What About Staff who are on Public Emergency Leave?

Employees who have been directed to self-isolate by their employer, their physician, or the provincial government or chief medical health officer may remain on public emergency leave for the period during which an order of the chief medical health officer remains in force as may be required. Where employees are authorized to work from home while on leave, they are entitled to be paid their regular wages and receive their regular benefits. Otherwise, it is an unpaid leave.

As described above, with each phase, a new public health order will be issued. Employers will want to carefully review the contents of any public health orders to determine how they will impact their operations and staffing requirements or any requirements respecting public health emergency leave.

Moving Forward

COVID-19 has changed the way we live and work. Employers need to be aware of the latest developments to ensure a safe and efficient re-opening of their businesses. They need to consider a variety of issues, such as their legal obligations to employees from both employment law and safety perspectives, in addition to how they will ensure a safe environment for patients, clients or customers.

About the Author:

Jon is an experienced labour and employment lawyer in the Saskatoon office who provides strategic, proactive advice to his clients.

About McKercher LLP:

McKercher LLP is one of Saskatchewan's largest, most established law firms, with offices in Saskatoon and Regina. Our deep roots and client-first philosophy have helped our firm to rank in the top 5 in Saskatchewan by Canadian Lawyer magazine (2019/20). Integrity, experience, and capacity provide innovative solutions for our clients' diverse legal issues and complex business transactions.



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