

Temporary Layoff Variance Applications - New Streamlined Process

Presentation to:
BC Hotel Association

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What's Happening?

- Global pandemic in March.
- *Employment Standards Act* provision for temporary layoffs - if laid off for more than 13 weeks out of 20 the layoff is deemed a termination.
- “COVID-19 Emergency Layoff” period extended 13 weeks to 16 weeks, then to 24 weeks - **ends August 30th**.
- To extend a temporary layoff beyond that date, non-unionized employers must apply for a variance under the *Employment Standards Act*.
- Unionized workplaces apply their collective agreement provisions and the collective bargaining process for changes.



Why apply for a Variance?

- Economic Restart is underway, and many businesses have safely begun operations, but have not recalled all staff.
- Without a variance:
 - employer-employee relationship is severed if employer doesn't recall employees on temporary layoff before August 30th.
 - eligible employees may be entitled to compensation for length of service under the *Employment Standards Act*.



What is the new Streamlined Variance Application Process?

- New, easy two-step application process:
 1. Survey your workforce using the template and tool on the Employment Standards Branch (ESB) website to ensure support of more than 50% of employees affected by the variance.
 2. Complete the on-line application and upload your employees' responses.
- You must submit your application by **August 25th** to ensure processing before the “COVID-19 Emergency Layoff” period ends August 30th.



Seasonal Work

- No general distinction in the ESA between “permanent” and “seasonal” employees, except when it comes to compensation for length of service
- **Definite Term Employee** – under the *Employment Standards Act*, an employee employed for a “definite term” (with set start and end dates) is not owed termination pay for length of service.
 - No compensation for length of service is owed if the exceptions apply;
 - Requires a clear, new period of employment each season; and,
 - The employee works the “definite term” or completes the “specific work”.
- **Specific Work** – employed for specific work to be completed within 12 months



What Does This Mean for You?

- **Extends the temporary layoff period** – so employers can avoid permanent layoffs and delay the potential for paying compensation for length of service to eligible employees, while the economy restarts.
- **Supports economic restart** – it's free, takes a short time to engage your workforce and complete, and provides flexibility to support restarting businesses.
- **Working together** – variance applications are joint, in the sense that employers and a majority of impacted workers must agree to it.



Supports for Local Governments

- **In-Person Support** – ServiceBC offices province-wide, ESB offices
- **Multi-lingual Support**
 - Toll-free, simultaneous translation in over 140 languages
 - 7:30am – 5:00pm, Monday-Friday
 - Ph: **1-833-236-3700**
- **Working together** – variance applications are joint; a majority of impacted workers must agree to it and may be several months' duration



Online Resources and Tools

- More information on the temporary layoff variance application process is available at:
<https://www.gov.bc.ca/covidlayoffs>
- The online temporary layoff variance application form is available at:
<https://services.labour.gov.bc.ca/variance/s/>
- Should you have any further questions, please email:
Variance@gov.bc.ca



Questions?

Ministry of Labour

