

An aerial, high-angle photograph of a crowd of people standing on a floor with a grid pattern. Several large, semi-transparent yellow circles are overlaid on the grid, highlighting specific areas. The overall color palette is warm, dominated by yellows and oranges.

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# Legislation, travel restriction and disciplinary action updates

February 26, 2021

**DENTONS WEBINAR SERIES**  
COVID-19 - LEGAL UPDATE  
FOR CANADIAN EMPLOYERS

# Our panelists



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# Update on Canada Emergency Wage Subsidy (CEWS)

Mike Harris, Partner, Edmonton  
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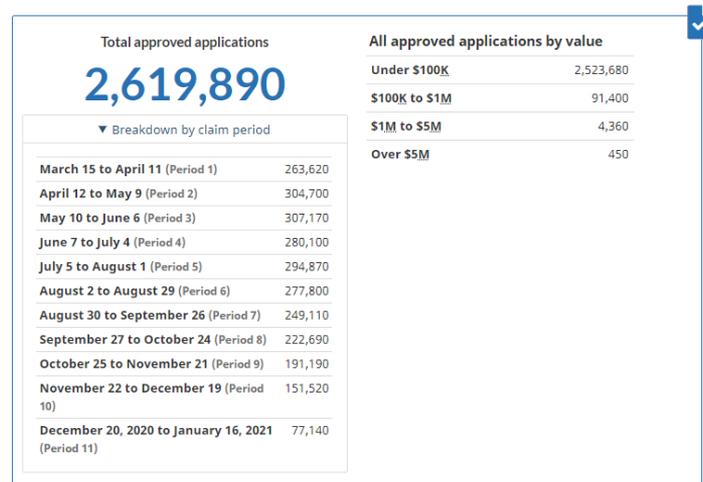
# CEWS claims to date

## Claims to date - Canada emergency wage subsidy (CEWS)

CEWS summary <sup>1</sup> <sup>2</sup> data since launch, as of February 14, 2021 <sup>3</sup>

### Expanded information about CEWS claims

[Detailed data about overall CEWS claims](#) is also available. You may download the data in PDF or CSV format.



Applications received <sup>3</sup>

**2,661,870**

Unique applicants with approved claims

**426,200**

Dollar value of subsidies approved

**\$65.56 billion**

# Number of employees supported per claim period

Employees whose wages will be supported by  
CEWS <sup>4</sup>



## By claim period <sup>?</sup>

Period 1	3,625,290
Period 2	3,944,580
Period 3	4,266,030
Period 4	4,102,670
Period 5	5,117,800
Period 6	4,783,680
Period 7	4,429,780
Period 8	3,931,790
Period 9	3,311,390
Period 10	2,537,540
Period 11	1,089,080

## Claim periods

Period 1	March 15, 2020 to April 11, 2020
Period 2	April 12, 2020 to May 9, 2020
Period 3	May 10, 2020 to June 6, 2020
Period 4	June 7, 2020 to July 4, 2020
Period 5	July 5, 2020 to August 1, 2020
Period 6	August 2, 2020 to August 29, 2020
Period 7	August 30, 2020 to September 26, 2020
Period 8	September 27, 2020 to October 24, 2020
Period 9	October 25, 2020 to November 21, 2020

# CEWS registry – employer search up and running

## CEWS Registry

⚠ The "View full list of employers" functionality is temporarily unavailable. You can continue to search for corporations by searching a business name or number.

Use the CEWS Registry below to search for employers who have received or will soon receive the Canada Emergency Wage Subsidy (CEWS). To protect the privacy of individuals, only corporations will be disclosed.

### Business name

*(Enter the corporation's business name or an abbreviation)*

### Business number (optional)

*(Enter the 9-digit or 15-digit business number)*

  RP 

Search

### Information for employees

If you have reason to believe a CEWS applicant is misusing the subsidy, you can report suspicious activities to the CRA by submitting a lead to the [Leads Program](#).

### ▼ CEWS Registry Information

- The CEWS registry allows you to search the legal name, operating/trade name or business number of a corporation that has been approved for the CEWS.
- If a corporation has applied for and has received or will soon receive the CEWS, the legal name and operating/trade name listed for that corporation will appear in the search results. The business number will not be visible, even if it was entered in the search.
- The Canada Revenue Agency will continuously update the CEWS registry with corporations that have been approved for the subsidy.
- Due to processing times, CEWS repayments may require additional time to be reflected in the CEWS registry.
- **The CEWS registry ONLY includes corporations.**
- **The CEWS registry does not include the amount received by a corporation or the periods for which the corporation received the subsidy.**
- An employer in receipt of the CEWS is not obligated to re-hire workers that have been laid off. Employers can decide to apply for the CEWS in respect of only a portion of its workforce depending on their operational needs.
- The CEWS registry will change over time as applications are received, cancelled or withdrawn, as the CRA determines that some recipients are ineligible upon further review and as feedback on the tool is received.
- The legal authority to use information for the purposes of the CEWS registry is found in Subsection 241(3.5) of the Income Tax Act which was recently enacted in [Bill C-14, COVID-19, Emergency Response Act, No. 2](#).

# Open and closed claim periods



## All claim periods from March 15, 2020, to March 13, 2021

Select a claim period

- Open for application
  - Period 6: August 2 to August 29, 2020
  - Period 7: August 30 to September 26, 2020
  - Period 8: September 27 to October 24, 2020
  - Period 9: October 25 to November 21, 2020
  - Period 10: November 22 to December 19, 2020
  - Period 11: December 20, 2020, to January 16, 2021
  - Period 12: January 17 to February 13, 2021
- Upcoming
  - Period 13: February 14 to March 13, 2021
- No longer available
  - Period 1: March 15 to April 11, 2020
  - Period 2: April 12 to May 9, 2020
  - Period 3: May 10 to June 6, 2020
  - Period 4: June 7 to July 4, 2020
  - Period 5: July 5 to August 1, 2020

# Period 13 (Feb 13 to March 13, 2021) opens for applications March 14

## Next claim period

Period 13: February 14 to March 13, 2021



The period is not yet open for application.

The earliest you can apply is **Sunday, March 14, 2021**.

▼ Calendar view: claim period 13

### February

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

### March

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

## Future claim periods

- The government has extended the wage subsidy to June 30, 2021, however they have only announced details for claim periods until March 13, 2021. Details for claim periods beginning after March 13, 2021 will be announced at a later date.

Claim Period	Potential* Claim Dates
14	March 14 to April 10, 2021
15	April 11 to May 8, 2021
16	May 9 to June 5, 2021
17	June 6, 2021 to June 30, 2021
* Not yet announced, currently there are no prescribed periods after clam period 13	

## CEWS for period 1 to 4 (Bill C-14)

- you had to meet a minimum of 15% (period 1) or 30% (periods 2 to 4) revenue drop to qualify for the subsidy
- if you qualify for a period, you automatically qualify for the following period
- the subsidy rate is 75% of eligible employees' remuneration, up to a maximum of \$847/week per eligible employee
- employees who were unpaid for 14 or more consecutive days in the period can't be included in your calculation

## July 2020 changes to CEWS as of period 5 (Bill C-20)

- the subsidy rate varies, depending on how much your revenue dropped
- if your revenue drop was less than 30% you can still qualify, and keep getting the subsidy as employees return to work and your revenue recovers
  - for periods 5 and 6, if your revenue dropped at least 30%, your subsidy rate will be at least 75%, up to a maximum of \$847/week per eligible employee
- employers who were hardest hit can qualify for a higher amount
- employees who were unpaid for 14 or more days can now be included in your calculation
- use the current period's revenue drop or the previous period's, whichever works in your favour

## November 2020 changes to CEWS (Bill C-9)

- the subsidy is extended to **June 2021**
- the maximum subsidy rate for periods 8 to 10 will remain at 65% (40% base rate + 25% top-up)
- beginning in period 8, the top-up rate and base rate are now calculated using the same one-month revenue drop
  - for **periods 8 to 10**, use the new top-up calculation or the previous 3-month average drop, whichever works in your favour
- the deadline to apply was **January 31, 2021**, or **180 days** after the end of the claim period, whichever comes later
- starting in **period 9**, the calculation for employees on leave with pay now aligns better with EI benefits
- you can now calculate [pre-crisis pay \(baseline remuneration\) for employees who were on certain kinds of leave](#), retroactive to period 5
- the [Canada Emergency Rent Subsidy \(CERS\)](#) has been introduced for businesses, non-profits, and charities

# Latest changes to CEWS (January 2021)

- details for claim periods 11 to 13 (December 20, 2020 to March 13, 2021):
  - You can use the online calculator or downloadable spreadsheet to calculate the subsidy for periods 11 to 13
  - The maximum subsidy rate is **75%** (**40% base rate + 35% top up**)
  - the maximum subsidy amount for employees on leave with pay is **\$595**

## Revenue drop of 70% or more

Base rate

40%



Top-up rate

35%

## Revenue drop of 50% to 69.99%

Base rate

40%



Top-up rate

1.75 x (revenue drop - 50%)

## Revenue drop of 0% to 49.99%

Base rate

0.8 x revenue drop



Top-up rate

0%

For periods 11 to 13, the top-up rate is based on the same revenue drop used to calculate your base rate.

## Technical interpretation - 2020-0865661I7 – taxation of CEWS

- Qualifying entity filed an application for the CEWS at the end of **May 2020** for the qualifying period that begins on March 15, 2020 and ends on April 11, 2020 (period 1) for an amount of \$100,000. This amount was received by the applicant during the month of **June 2020**. The entity's taxation year-end is **May 31**. In this example, can CRA specify when the amount of the CEWS of \$100,000 received in June 2020 must be included in the calculation of the income of the qualifying entity, and under which section of the ITA?
- a), the application is for the qualifying period that ends on April 11, 2020. Therefore, the amount of the CEWS is deemed, under subsection 125.7(3) of the ITA, to be received immediately before the end of April 11, 2020 as an assistance from a government, hence its inclusion in the taxpayer's income for its taxation year ending on May 31, 2020.

## Technical interpretation - 2020-0865661I7 – timing of taxation of CEWS

- The entity files its tax return for the taxation year ending on June 30, 2020 on October 31, 2020.
- The entity for files all its applications for CEWS period 1 to 4 at the same time, on December 15, 2020. The four applications for the CEWS are treated as filed and the amount of \$200,000 is received in January 2021.
- Because the entity has not filed its applications for the CEWS on October 31, 2020, no amount in this regard is added in the calculation of its income for the taxation year ending on June 30, 2020.
- Since the taxpayer has not included the amounts of the CEWS in the calculation of its income at the time its tax return was filed (in October 2020) for its taxation year ending on June 30, 2020, **it would be necessary to subsequently file an amended tax return to include the amounts of the CEWS, for periods 1 to 3, in the taxpayer's income for its taxation year ending on June 30, 2020.** CRA will not grant any administrative relief to allow the taxpayer to include the amount of the CEWS in its income for a taxation year other than the one that ends on June 30, 2020.

## Technical interpretation - 2020-0848881E5 F – billing of salaries

- Employees of Company A perform certain tasks on behalf of Company B.
- Company A invoices Company B for an amount equal to the cost of salaries and benefits of Company A employees who perform duties on behalf of Company B.
- Company A and Company B do not deal with each other at arm's length.
- “eligible remuneration” para (c) excludes any amount “paid or returned, directly or indirectly... to... the eligible entity”.
- Do we need to exclude this from eligible remuneration?
  - CRA: the billing of an amount (at cost or marked-up) in respect of the cost of salaries and benefits of employees of one entity who performed work for another entity is not a returned amount as described in paragraph 125.7(1)“eligible remuneration” (c)

## Technical interpretation – 2020-0847781E5 – taxable benefits

- Is there a difference between the remuneration that has to be taken in consideration for the 14 day remuneration condition for an individual to qualify as an “eligible employee” and the “eligible remuneration” paid to an employee to calculate the CEWS?
  - Are you an eligible employee? Remuneration for the purpose of the definition of an “eligible employee” is broader, can include cash and non-cash taxable benefits received/enjoyed in the period.
  - What is the wage subsidy entitlement? **Non-cash taxable benefits are not remuneration eligible for the wage subsidy.** Only “eligible remuneration” paid to an eligible employee by a qualifying entity in respect of a week in a qualifying period qualifies for purposes of computing the wage subsidy

## Technical interpretation – 2020-0847781E5 - taxable benefits

- Since taxable benefits are remuneration for purposes of determining eligible employees in a particular qualifying period, which portion of the remuneration is received or enjoyed in respect of particular days in a qualifying period?
- Taxable benefits (including any cash or non-cash taxable benefits) are remuneration and therefore, an employer must take these benefits into consideration for purposes of determining whether the 14 day remuneration condition is met . Whether remuneration received by an individual is in respect of a specific day in a qualifying period is a question of fact that can only be determined on a case by case basis.

## Technical interpretation – 2020-0847141E5 – payments to contractors

Gratuitous payments made by an operator of a mine to its third party contractors to assist with payroll costs during a temporary suspension of operations at the mine due to the COVID-19 pandemic – goal was to ensure workforce remains available and contractors did not lose employees to other job opportunities

Will this be required to be included in the qualifying revenue of the contractors? (i.e. risk of impacting CEWS eligibility if it is “qualifying revenue”)

- “qualifying revenue” excludes “extraordinary items”. But this is not a defined term. Question of fact that could only be determined after a consideration of all the detailed facts and circumstances surrounding the payment.
- Relevant considerations in the current situation could include whether the Contractor had received payments in the past upon the temporary suspension of operations at the mine, whether the Contractor was entitled to receive compensation upon a suspension of operations at the mine under its contract with the Operator and the degree of control the Contractor had with respect to the payments.

## Technical interpretation - 2020-0851731E5 – election for NAL entities

- Canco manufactures the Product.
- Canco sells all of the Product to Forco A, a corporation related to Canco for tax purposes. As such, all of Canco's revenue is from a non-arm's length person.
- Forco A uses the Product in its manufacturing to make the Finished Goods.
- Forco A sells all of the Finished Goods to Forco B, a corporation who is related to both Canco and Forco A. Accordingly, all of Forco A's revenue is also from a non-arm's length person.
- Forco B is the distributor for the Finished Goods and sells all of the Finished Goods to arm's length customers.
- Only Canco has Canadian employees – so only Canco is an “eligible entity” for CEWS purposes.

## Technical interpretation - 2020-0851731E5 – election for NAL entities (continued)

- “Qualifying revenue” excludes amounts derived from non-arm’s length persons/partnerships
- So Canco has no qualifying revenue and therefore no revenue decline
- Election in 125.7(4) is available where all or substantially all of an eligible entity’s qualifying revenue is from one or more NAL persons or partnerships.
- Calculates qualifying revenue of the eligible entity based on the proportionate revenue drop in non-arm’s length entities that jointly elect
- So what happens when chain is Canco -> Forco A -> Forco B -> end consumers?

## Technical interpretation - 2020-0851731E5 – election for NAL entities (continued)

- The election in paragraph 125.7(4)(d) of the Act may be made only by an eligible entity and those NAL entities with whom it directly earns qualifying revenues.
- Accordingly, in the situation provided, were Canco and Forco A to make the election in paragraph 125.7(4)(d), in determining Canco's decline in qualifying revenue based on Forco A's decline in qualifying revenue, Forco A would not have any qualifying revenue because it earns all of its revenue from persons or partnerships not dealing at arm's length with it (Forco B). As such, in this situation, the election in paragraph 125.7(4)(d) would not work.
- **“In our view, the election in paragraph 125.7(4)(d) may not be made by a multi-tiered structure or chain of entities that are not dealing with each other at arm's length.”**

## Technical interpretation – 2020-0847781E5 - commissions

- Does the payment of a commission, earned in a previous period, have an impact on the 14 days without remuneration test to qualify as an “eligible employee”?
  - E.g. sell a car January 2, 2021, receive commission payment Jan 31, 2021
    - Is this remuneration for Period 11 (Dec 20 – Jan 16) or Period 12 (Jan 17 – Feb 13)?
  - The moment when a commission (or any other kind of remuneration) is paid to an employee is not necessarily relevant for the determination of whether an individual is an “eligible employee.” The 14 day remuneration condition should be examined based on whether remuneration was paid *in respect of* a qualifying period and not on the remuneration that was actually paid *during* a qualifying period.

# The latest updates on Canada's COVID-19 travel restrictions

Henry J. Chang, Partner

Jonathan F. Mor, Senior Associate

## Overview – relevant orders

The Orders, which establish the COVID-19 travel measures (i.e., travel restrictions, self-isolation/quarantine requirement, and entry requirements) are as follows:

- Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19, No. 22 (“Interim Order No. 22”)
- Minimizing the Risk of Exposure to COVID-19 in Canada Order (Quarantine, Isolation and Other Obligations) (the “Quarantine Order”)
- Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States)
- Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from any Country Other than the United States)

# Overview – latest changes

The most recent COVID-19 travel measures include the following:

## **The Quarantine Order:**

- Pre-departure COVID-19 testing requirement for air travellers (also implemented by Interim Order No. 22) (the “Air Testing Requirement”)
- Pre-arrival COVID-19 testing requirement for travellers crossing land borders (the “Land Testing Requirement”)
- Post-arrival COVID-19 testing requirement for all travellers (the “Post-Arrival Testing Requirement”)
- Mandatory hotel requirement for air travellers (the “Mandatory Hotel Requirement”)

## **Interim Order No. 22:**

- The Air Testing Requirement

# The Air Testing Requirement - application

Before boarding an aircraft for a flight to Canada, every person must provide to the private operator or aircraft carrier operating the flight that they received either:

- A negative result for a COVID-19 molecular test that was performed on a specimen collected no more than 72 hours before the aircraft's initial scheduled departure time; or
- A positive result for a COVID-19 molecular test that was performed on a specimen that was collected at least 14 days and no more than 90 days before the aircraft's initial scheduled departure time.

The Air Testing Requirement does not replace the 14-day self-isolation/quarantine requirement, and functions as an additional layer of protection intended to support the preventative measures that are currently in place.

# The Air Testing Requirement – suitable COVID-19 test

Acceptable COVID-19 molecular tests include:

- PCR - Polymerase chain reaction
- RT-PCR – reverse transcription real time PCR
- Quantitative PCR (qPCR)
- Nucleic acid test (NAT) or Nucleic acid amplification test (NAATs)
- Reverse transcription loop-mediated isothermal amplification (RT-LAMP)
- Isothermal amplification
- Droplet digital PCR or digital droplet PCR (ddPCR)
- RNA (Ribonucleic acid)
- Ct (cycle threshold)
- CRISPR
- Sequencing
- Next generational sequencing (NGS) or whole genome sequencing (WGS)
- Oxford Nanopore sequencing (LamPORE)
- Detection of the N gene
- Detection of Orf1a/b
- Detection of the S gene
- Detection of the E gene
- Detection of the RdRp gene

# The Air Testing Requirement - exemptions

Although there are several exemptions to the Air Testing Requirement, most do not apply to business persons. Some examples include the following:

- Children under the age of five;
- Transiting passengers;
- Crew members;
- Certain residents of Canada who have been denied entry in a foreign country and who must board a flight destined to Canada;
- A person permitted to work in Canada as a provider of emergency services under Paragraph 186(t) of the IRPR (and who enters Canada for the purpose of providing those services);
- A person or a member of a class of persons who will provide an essential service, as determined by the Chief Public Health Officer (currently, this only includes certain members of the Canadian Armed Forces);

# The Air Testing Requirement - exemptions

- Certain officials of the Government of Canada, the government of a province or a foreign government;
- Certain residents of Canada who receive essential medical services or treatments in a foreign country (must be able to provide evidence); and
- A person who returns to Canada after suffering exigent hardship in a foreign country, as determined by the Minister of Foreign Affairs in consultation with the Minister of Health.

# The Land Testing Requirement - application

Every person five years of age or older, before or when entering Canada by a mode of transport other than an aircraft, must provide to the Minister of Health, screening officer or quarantine officer evidence that they received either:

- A negative result for a COVID-19 molecular test that was performed on a specimen collected no more than 72 hours before entering Canada; **or**
- A positive result for a COVID-19 molecular test that was performed on a specimen that was collected at least 14 days and no more than 90 days before entering Canada.

The types of COVID-19 molecular tests that are considered suitable for the Air Testing Requirement also satisfy the requirements of the Land Testing Requirement.

As with the Air Testing Requirement, the Land Testing Requirement does not replace the 14-day self-isolation/quarantine requirement, and functions as an additional layer of protection intended to support the preventative measures that are currently in place.

## The Land Testing Requirement - exemptions

Once again, most exemptions to the Land Testing Requirement do not apply to business persons. Although many of the exemptions mirror the Air Testing Requirement, there are a few notable additions:

- A person in the trade or transportation sector who is important for the movement of goods or people, (e.g., truck drivers, crew member on any aircraft, shipping vessel or train) who enters Canada for the purpose of performing their duties as a member of that sector;
- A person who must enter Canada regularly to go to their normal place of employment or to return from their normal place of employment in the United States, if they do not directly care for persons 65 years of age or older within the 14-day period that begins on the day on which the person enters;
- A person who was denied entry into the United States at a land border crossing;
- A person who, in exigent circumstances, is released by a quarantine officer from the Land Testing Requirement; and
- A person or any member of a class of persons who will provide an essential service, as determined by the Chief Public Health Officer (currently, no class of persons have been announced).

# The Post-Arrival Testing Requirement - application

Every person who is five years of age or older and who enters Canada must undergo a COVID-19 molecular test:

- On entering Canada (the “First Post-Arrival Test”), and
- After entering Canada (the “Second Post-Arrival Test”), at some point during their 14-day self-quarantine period.

Evidence of the results from the First Post-Arrival Test must be retained for 14 days, beginning on the day that they obtain the evidence of that result. However, the period begins again if the person:

- Develops signs and symptoms of COVID-19;
- Receives evidence of a positive result under any type of COVID-19 test; or
- Is exposed to another person who exhibits signs and symptoms of COVID-19.

The Post-Arrival Testing Requirement applies to air travellers, as well as those entering at land border crossings.

# The Post-Arrival Testing Requirement - exemptions

The exemptions to the Post-Arrival Testing Requirement are somewhat broader than the exemptions to the Air and Land Testing Requirements. Some notable exemptions include:

- A person who provides the screening officer or quarantine officer with evidence of a positive result for a COVID-19 molecular test, which was performed on a specimen collected at least 14 days and no more than 90 days before their entry into Canada (at the land border) or before the aircraft's initial scheduled departure time;
- A person who is exempt from the 14-day self-quarantine requirement;
- A person who undergoes an alternative testing protocol to screen or diagnose COVID-19 (only available to: (1) a person or class of persons designated by the Chief Public Health Officer, (2) an unaccompanied minor, or (3) a person exempt from the 14-day self-quarantine requirement based on compassionate grounds);
- An accredited person and a person holding a D-1, O-1, or C-1 visa (diplomatic and official visas) entering Canada to take up a post and become an accredited person;
- A diplomatic or consular courier; and
- A person who, in exigent circumstances, is released from the Post-Arrival Testing Requirement by a quarantine officer.

# The Mandatory Hotel Requirement - application

Any person who enters Canada by aircraft and who does not have signs and symptoms of COVID-19 must quarantine themselves without delay at a government-authorized accommodation, in accordance with the instructions provided by a screening officer or quarantine officer and remain in quarantine until they receive the result for First Post-Arrival Test. Travellers are required to book accommodation for a standard period of three nights.

The mandatory hotel requirement applies to air travellers only. Those who enter Canada at a land border crossing will still be permitted to self-isolate for the full 14 day period at a suitable location of their choosing, subject to the approval of a screening officer or quarantine officer.

Travellers must make arrangements for government-authorized accommodation at their own expense. However, the Quarantine Order also contemplates the possibility that the government-authorized accommodation might be provided or paid for by the Government of Canada or the government of a province.

The costs associated with the 3-night stay may vary by location. The final price will include costs for the following: (1) food, (2) room, (3) security, (4) transportation, and (5) infection prevention and control measures.

Prior to boarding a flight to Canada, travellers are required to submit proof of prepaid government-authorized accommodation through ArriveCAN.

# The Mandatory Hotel Requirement - exemptions

Some limited exemptions from the mandatory hotel quarantine requirement are available. These include:

- An unaccompanied dependent child or an unaccompanied minor;
- Persons exempt from the post-arrival COVID-19 molecular test requirement are also exempt from the mandatory hotel quarantine requirement;
- A diplomatic or consular courier; or
- A person who, in exigent circumstances, is released by a quarantine officer from the requirement to quarantine themselves in a government-authorized accommodation, in which case the person must follow instructions specified by the quarantine officer.

Persons who are not required under the Quarantine Order to provide a suitable quarantine plan and evidence of prepaid government-authorized accommodation will instead be required to provide their contact information.

# The Mandatory Hotel Requirement – suitable accommodations

A list of government-approved accommodations (the “Authorized Hotels”) has now been published:

- **Alberta [Calgary International Airport (YYC)]:**
  - Acclaim Hotel; and
  - Calgary Airport Marriott In-Terminal Hotel.
- **Ontario [Toronto Pearson Airport (YYZ)]:**
  - Alt Hotel Pearson Airport;
  - Fairfield Inn & Suites Toronto Airport;
  - Four Points by Sheraton;
  - Holiday Inn Toronto International Airport; and
  - Sheraton Gateway Hotel in Toronto International Airport.
- **British Columbia [Vancouver International Airport (YVR)]:**
  - Fairmont Vancouver Airport;
  - Radisson Vancouver Airport; and
  - The Westin Wall Centre, Vancouver Airport.
- **Québec [Montréal-Pierre Elliott Trudeau International Airport (YUL)]:**
  - Aloft Montreal Airport;
  - Crowne Plaza Montreal Airport;
  - Holiday Inn Express and Suites Montreal Airport; and
  - Montreal Airport Marriott In-Terminal.

# The Mandatory Hotel Requirement – duration of stay

Duration of stay at one of the Authorized Hotels will depend on the outcome of the First Post-Arrival Test:

- A traveller who receives a negative test result may check-out of the hotel, even if this occurs before the end of their three night stay. If the traveller has an approved quarantine plan, they will be permitted to complete the remainder of their 14-day quarantine at their planned location. Those without an approved quarantine plan will complete the remainder of their quarantine at a designated federal quarantine facility.
- A traveller who receives a positive test result must remain in their room, and will be contacted by a Public Health Agency of Canada (“PHAC”) official who will provide further instructions. Such a traveller will be required to isolate at a federal designated quarantine facility or other suitable location for 14 days from when the sample for the First Post-Arrival Test was collected.
- A traveller who has yet to receive a test result after three days, or who receives a test result that was inconclusive, will be required to remain in their room. In such cases, a PHAC official will call the traveller to provide additional details and instructions. At that point, the PHAC official may permit the traveller to go home if they have a suitable isolation plan, as well as private means of transportation to go directly to their final destination.

# The Mandatory Hotel Requirement – booking accommodations

The booking process is exclusively managed by GB Travel Canada Inc. (i.e., American Express Global Business Travel). It is available by telephone only.

In order to reserve and pay for the mandatory 3-night hotel stay, travellers with flights to Canada scheduled within the next 48 hours are instructed to call one of the following phone numbers:

- 1-800-294-8253 (toll-free within North America); or
- 1-613-830-2992 (collect outside of North America).

This strongly suggests that a reservation cannot be made more than 48 hours in advance. The regular hours of operation for the phone lines provided are 8:00 am to 11:00 pm EST, seven days a week, and calls received after hours will be limited to emergencies.

Travellers should receive email confirmation of their accommodation within four hours of booking.

# The latest COVID-19 travel measures - summary

## New requirements for air travellers:

- The Air Testing Requirement;
- Post-Arrival Testing Requirement:
  - The First Post-Arrival Test; and
  - The Second Post-Arrival Test.
- The Mandatory Hotel Quarantine Requirement.

## New requirements for travellers at land border crossings:

- The Land Testing Requirement;
- Post-Arrival Testing Requirement:
  - The First Post-Arrival Test; and
  - The Second Post-Arrival Test.

# **Workplace discipline**

Considerations when dealing with disciplinary matters in relation to COVID-19

Jeff Bastien, Senior Associate, Vancouver

# Disciplinary matters in relation to COVID-19

- Application of existing legal principles involving discipline to new circumstances
- Established objectively reasonable standards of conduct?
- Communicated to employees?

## Imposing Discipline: Contextual Approach

- Nature and seriousness of the misconduct
- Surrounding circumstances
- Proportionality

# Disciplinary matters in relation to COVID-19 – at the workplace

- Employee non-compliance with health and safety policies - e.g. not wearing a mask in common areas
  - Is the non-compliance due to a disability?
- Customer refusals to wear masks
  - Public health orders requiring masks include certain exemptions
  - Medical proof not required
  - Accommodations such as curbside pickup and online shopping for retail services?
- Employee unsafe work refusals – e.g. refusal to work because employee reasonably believes the work would create an undue hazard / danger to the health and safety of any person
  - Statutory prohibition on disciplining employees for acting in compliance with the right to refuse unsafe work

# Disciplinary matters in relation to COVID-19 – outside the workplace

- Discipline for conduct outside the workplace
  - Nexus between the conduct and employment?
    - Connected to the employee's duties?
    - Damage employer's reputation?
    - Cause other employees to refuse to work with the individual?
    - Contravene employer policies?
- Contraventions of Public Health Orders during personal time?
- Attendance at protests/rallies?
- Social media posts?

**Questions?**

The background is a solid orange color. It features three large, semi-transparent yellow circles of varying sizes. One circle is on the left side, another is on the right side, and a smaller one is positioned at the bottom right, overlapping the larger circle on the right.

# Thank you



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