



## Novel Coronavirus (COVID-19)

### Employment & Labour

June 2020

# Temporary Pandemic Pay Order Issued Pursuant to Ontario Regulation 241/20

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On April 25, 2020, the Government of Ontario announced that it would be providing frontline employees with temporary pandemic pay in recognition of their dedication, long work hours, and increased risk of working in an environment in which they are also trying to contain the spread of the COVID-19 outbreak.

Pursuant to Ontario Regulation 241/20, an order that provides eligible employees with temporary pandemic pay has recently been issued by the Provincial Government (the "Order"). The Order is retroactive to April 24, 2020 such that the temporary pandemic pay will be effective for 16 weeks, from April 24, 2020 until August 13, 2020.

The Order applies province-wide to:

- eligible employees;
- employers of eligible employees;
- employers of persons redeployed to perform work as eligible employees; and
- trade unions and bargaining agents that represent eligible employees.

Eligible workplaces include long-term care homes, retirement homes, home and community care settings, including community-based mental health and addictions facilities and all hospitals providing publicly-funded services, including small rural hospitals, post-acute hospitals, children's hospitals and psychiatric hospitals.

Eligible employees include nurses, personal support workers, care workers, paramedics, cleaning staff, housekeeping staff, maintenance staff, food services staff and administration personnel. A complete list of eligible employees is available on the government's website.

The Order clarifies that the category of “eligible employees” cannot be expanded by arbitrators, tribunals, officers or courts beyond the list provided by the government.

Temporary pandemic pay is designed to support eligible full-time, part-time and casual employees. It does not apply to members of management.

Further, temporary pandemic pay applies to hours actually worked by eligible employees and does not apply to periods when an employee is on vacation or on sick leave. The pandemic pay will also not affect an employee’s entitlement to CERB or to EI. The pandemic pay will not constitute a part of an employee’s base salary or pensionable earnings and will have no impact on benefits that are provided by employers.

The Order provides that unionized employers do not need to enter into an agreement with their bargaining agent or trade union to implement the temporary pandemic pay and neither can trade unions grieve the payment of pandemic pay under the Ontario *Labour Relations Act, 1995*. This may impact labour relations between employers and their bargaining agents as prior to the issuance of the Order, it had been considered to be improper for employers to be negotiating wage increases or, unilaterally introducing compensation improvements without involving the trade union in a unionized environment.

We will continue to monitor the developments that may arise under the Order and continue to update our clients.

If you have any questions about COVID-19 and your workplace, or any other human resource law issue, please contact a **member of our team**. For more information about dealing with COVID-19, please visit our **COVID-19 Resource Centre**.

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