

EMPLOYER OPTIONS DURING COVID-19: WORK-SHARING PROGRAM

By [Diana F. Saturno](#) and [Catherine Hart](#)*

Many employers wish to avoid layoffs during this unprecedented economic climate. An option for employers is to work with their employees to create alternative employment arrangements. Work-Sharing is one program available to employers and employees that can accommodate a temporary reduction in business activity due to events beyond the control of the employer, such as COVID-19.

Work-Sharing involves a three-party agreement between the employer, employees and Service Canada. This optional arrangement requires employees to agree to a reduced schedule of work and to share the available work over a specified period of time. If this arrangement is agreed to, employees receive Employment Insurance benefits ("**EI benefits**") as a top up to their income earned from their reduced hours.

Who can apply for the Work-Sharing program?

This program is open to both private and public corporations and to not-for-profit organizations; however, to be eligible for this program, a business must have operated for at least two years, year-round. The Work-Sharing program is designed to assist businesses experiencing a shortage of work that is temporary and beyond their control; therefore, businesses that have cyclical/recurring slowdowns are ineligible. Further, a business must show that its business activity, such as sales or production levels, has decreased by at least 10% within the last six months.

Work-Sharing is available to permanent, year-round employees who are eligible to receive EI benefits. A temporary employee can participate in this program only if they are not employed on a seasonal basis and if they have maintained hours similar to permanent full-time or part-time employees within the last twelve months.

How do I apply for a Work-Sharing agreement?

A joint application, made by the employer and the employees, must be submitted a minimum of 30 days prior to the requested start date. An employer must submit, and implement, a recovery plan designed to return the employees participating in the Work-Sharing program back to normal working hours by the end of the Work-Sharing agreement.

Work-Sharing agreements must have a minimum duration of six weeks. While such agreements usually have a maximum duration of 38 weeks, in light of the COVID-19 crisis, the Government of Canada has temporarily extended the possible duration of Work-Sharing agreements from 38 weeks to 76 weeks across Canada for those businesses impacted by COVID-19. As well, the



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Government of Canada has waived the mandatory waiting period so that employers with a recently expired Work-Sharing agreement may immediately apply for a new one.

If you have questions about your obligations as an employer with respect to a Work-Sharing agreement, please contact a member of Fogler, Rubinoff LLP's employment group.

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