

# Second Declared Emergency: What Employers and Employees Need to Know

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On January 12, 2021, Ontario [declared](#) a second provincial emergency in response to growing concerns surrounding the COVID-19 pandemic. As of Thursday, January 14, 2021, a stay-at-home order is in effect which requires everyone to remain at home, with some exceptions such as going to the grocery store or pharmacy, accessing health care services, exercising, or for work that cannot be done remotely. A helpful guide to the lockdown and new restrictions can be found [here](#), and the associated regulation can be found [here](#).

Here are some highlights for **employers** from the January 12, 2021 news briefing:

- All businesses must ensure that any employee who can work from home, does work from home.
- All non-essential retail stores must open no earlier than 7 a.m. and close no later than 8 p.m. The restricted hours of operation do not apply to stores that primarily sell food, pharmacies, gas stations, convenience stores, and restaurants for takeout or delivery.
- All provincial offences officers, including police, bylaw officers, and provincial workplace inspectors, will have the authority to issue tickets to individuals who do not comply with the stay-at-home-order, or those not wearing a mask or face covering indoors in places open to the public, subject to limited exceptions, as well as retail operators and companies who do not enforce requirements. Non-compliance may lead to fines and/or prosecutions.
- The Ministry of Labour is introducing the "Stay Safe All Day" campaign, focusing workplace inspections in areas of high transmission and providing new educational materials to employers to promote safe behaviour before, during and after work.
- Inspectors will use a data-driven approach to focus on workplaces with reported COVID-19 outbreaks, manufacturing businesses, warehouses, distribution centres, food processing operations, construction projects and publicly accessible workplaces deemed essential, such as grocery stores.
- The Ministry of Labour is using a new data-sharing program, in conjunction with the Ministry of Long-Term Care and the Retirement Regulatory Authority, to focus onsite inspections of long-term-care homes and retirement homes.

Here are some highlights for **employees** from the January 12, 2021 news briefing:

- Employees who become infected with COVID-19 may be entitled to federally funded [paid sick leave](#) of up to \$500 a week for two weeks.
- Workers can also access [Canada's Recovery Caregiver Benefit](#) of up to \$500 per week for up to 26 weeks if they are unable to work because they must care for their child under 12 years old or a family member who needs supervised care.

Two new regulations under the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.9 were introduced: [one](#) declaring the emergency, and the [other](#) outlining enhanced enforcement measures.

Now that we are in a “declared emergency”, employers and employees should keep in mind that employees may be able to take advantage of the declared emergency leave provided for in section 50.1(1.1) of the *Employment Standards Act, 2000*, S.O. 2000, c. 41. This is an unpaid leave of absence available to employees who will not be performing the duties of his or her position because of an emergency declared under section 7.0.1 of the *Emergency Management and Civil Protection Act* and,

1. because of an order that applies to him or her made under section 7.0.2 of the *Emergency Management and Civil Protection Act*,
2. because of an order that applies to him or her made under the *Health Protection and Promotion Act*,
3. because he or she is needed to provide care or assistance to a family member of the employee or the employee’s spouse, or a person who considers the employee to be like a family member (provided the prescribed conditions, if any, are met), or any individual prescribed as a family member for the purposes of this section, or
4. because of such other reasons as may be prescribed.

Employees who intend to take a declared emergency leave must advise their employer of their intention to do so. An employer may require an employee who takes such a leave to provide evidence reasonable in the circumstances, at a time that is reasonable in the circumstances, that the employee is entitled to the leave. Remember – this leave only applies for as long as the declared emergency is in effect.

Employers and employees must work together to stay safe and remain productive during these unpredictable times.

Questions? Give us a call! We are happy to help.

*The information contained in this post is for informational purposes only and should not be construed as legal advice.*