The U.S. tariff effect: Temporarily expanded work share and employment insurance measures introduced in Canada

April 30, 2025

A continuation in our U.S. tariff effect series, a national analysis of the impact of tariffs on Canadian employers.

Over the past couple of months, Employment and Social Development Canada (ESDC) has announced a series of temporary, expanded employment insurance (EI) measures. These are meant to assist employers experiencing a decline in business activity connected to the threat, or potential realization, of U.S. tariffs introduced by the Trump administration.

Expanded access to work-sharing program

On March 7, 2025, ESDC announced a set of temporary changes to its work-sharing program, both expanding access to the program and extending the duration of EI benefits available to employees participating in a work share arrangement. The measures are intended to increase the ability to avoid temporary layoffs and terminations due to enhanced economic uncertainty and downturn caused by the U.S. tariffs.

As a refresher, the work-sharing program allows employers to avoid layoffs resulting from a temporary decrease in their normal level of business activity due to circumstances outside their control. It does so by providing EI benefits to employees impacted by the work shortage while these employees are working a temporarily reduced work week. To participate in the program, there must be a three-party agreement between the employer, the affected employee(s) and Service Canada. In unionized workplaces, the union must also be involved.

All employees participating in a work share arrangement must experience a minimum 10 per cent reduction to their normal weekly earnings, and share the available work equally for a minimum six-week period to a maximum of 26 weeks. The maximum period is subject to an approved extension of 12 weeks, which means the longest a work share arrangement can last under normal conditions is 38 weeks. The end of the agreement is then followed by a temporary cooling-off period, which is equal to the

number of weeks the program was in place. For example, if the work share arrangement was in place for 26 weeks, the mandatory cool-off period would be the subsequent 26 weeks.

The temporary measures announced on March 7 expand the eligibility criteria for participation in the work-sharing program as well as the duration of benefits. The temporary measures apply to employers who are affected by U.S. tariffs, whether threatened or implemented, provided they have been in operation in Canada for one (1) year, and have a minimum of two (2) EI-eligible employees who agree to a reduction in hours and the sharing of any available work. The expanded measures include:

- A doubling of the maximum duration of work-sharing agreements from 38 weeks to 76 weeks (with the minimum duration of at least six (6) weeks);
- A waiver of the mandatory cooling-off period between successive work-sharing agreements; and
- An expansion of the employer and employee eligibility criteria to include, *inter alia*, cyclical or seasonal employers and their employees; businesses which have only been in operation in Canada for one (1) year; and employers who have had a decrease in work activity of less than 10 per cent over the last six (6) months. This expansion of eligibility criteria will allow more workplaces and employees to benefit from the program.

These changes to the work-sharing program will remain in place until March 6, 2026.

Expanded EI measures

Just weeks later, on March 22, 2025, ESDC announced a series of temporary, expanded employment insurance (EI) measures in an additional effort to offset the impact of U.S. tariffs on the Canadian economy.

The measures include:

1. A boost of one percentage point to the unemployment rate across all EI regions, with a minimum preset unemployment rate of 7.1 per cent. This will lower the minimum number of hours an applicant must have worked to be eligible for regular EI benefits to 630 hours, while increasing the duration of benefit eligibility by up to four (4) weeks.[1] These changes will remain in place for three (3) months, and will apply to claims starting between April 6, 2025, and July 12, 2025. Further details from ESDC on the expanded thresholds and related calculations are available online.
2. A six-month suspension of the effect of separation payments on EI benefits, such as severance and outstanding vacation paid out upon the departure from employment. Under the current rules, claimants must have exhausted all separation payments prior to receiving EI benefits, which will no longer be the case under this temporary measure. The measure will apply to claims or allocations starting between March 30, 2025, and Oct. 11, 2025.
3. A six-month waiver of the one-week waiting period for claimants to begin receiving EI benefits. This will apply to all categories of EI benefits, including regular, special, and fishing.

Key considerations for employers

As an alternative to temporary layoffs, employers whose operations are impacted by U.S. tariffs may benefit from participating in the temporarily expanded work-sharing program. However, in our experience, work-sharing arrangements tend to be an underutilized tool, which could prevent mass terminations in the coming months for businesses heavily impacted by the U.S. tariffs. Transparency from employers with respect to the impact of U.S. tariffs will provide an understandable and reasonable basis for employees to agree to a work-sharing agreement. Such an arrangement allows the employer to continue to operate the business with much needed adaptability and flexibility while keeping employees connected to the workforce.

As nicer weather approaches in coming months, and children are on holiday from school during July and August, employees may be more inclined to agree to a reduced workweek: this would increase their time at home while maintaining their employment, and most of their wages, in this period of economic uncertainty. From the employer's perspective, work-sharing arrangements can prevent issues that can arise from recalling employees from temporary layoffs, or obligations that stem from individual and mass terminations. In some situations, this will present a win-win option for both the business and employees involved.

In some instances, temporary layoffs may be necessary. Where this is the case, employers must remain mindful of the possible effects of these changes to receipt of EI benefits. In particular, removal of the one-week waiting period, coupled with the ability for claimants to concurrently receive separation payments and EI benefits, may decrease the incentive for laid-off employees to immediately return to their former positions if offered re-employment. As such, employers should clearly communicate recall-to-work expectations if temporary layoffs must be utilized.

In some circumstances, and as discussed in our first article in this series, temporary layoffs will unfortunately convert to permanent workforce reductions, which will trigger individual and mass termination obligations under employment standards legislation and, potentially, common law obligations. In preparation for the possibility of separation from employment, employers should consider updates to their standard form templates and internal policies to reflect the announced changes regarding EI benefits. For instance, references in form templates and policies to the one-week waiting period in termination letters should be removed, and any language on EI eligibility requirements will need to be revised.

Finally, in the unionized context, employers operating under a collective agreement must be attentive to the potential effects of these new measures on provisions related to EI benefits and layoffs generally.

Final thoughts

BLG will continue to provide updates on these and other key developments in its comprehensive Tariffs and Trade Resource Centre, which covers topics of interest across industries, regions, and legal practice areas.

Now more than ever, emphasizing collaboration and employee engagement in responding to the impact of U.S. tariffs is essential. We urge employers to remain transparent and communicative with their employees as they continue to navigate this situation. In these rapidly changing, uncertain economic times, expert legal counsel is essential for employers to ensure ongoing compliance with employment legislation and regulations, as well as access to government relief measures where available. BLG's leading labour and employment lawyers are available to advise employers across Canada on how best to adapt their business to these changes. A list of key contacts is included at the bottom of this article.

In the meantime, employers will want to continue evaluating their options with respect to responding to the impact of U.S. tariffs, and reassure employees that they will carefully gather and evaluate all information and options before implementing any decisions.

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Footnote

[1] Pursuant to guidance released by EDSC, additional boosts to the unemployment rates in regions with higher rates will be made, along with a corresponding decrease in the minimum number of hours required for eligibility. For instance, in regions with an unemployment rate between 6.2 per cent and 12 per cent, an additional 1 per cent will be added. The higher the unemployment rate in a region, the lower the number of hours required for an employee to qualify, down to only 420 hours in regions with unemployment rates exceeding 13.1 per cent.

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