

THE EMPLOYERS' CHOICE

CLIENT UPDATE

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SARS Assistance and Recovery Strategy Act, 2003

On April 30, 2003, the Ontario government passed the *SARS Assistance and Recovery Strategy Act, 2003* ("the SARS Act") to address the impact of the recent SARS outbreak.

Employers should note that the *SARS Act* creates a new category of leave which entitles employees affected by the SARS outbreak to an unpaid leave of absence for SARS-related reasons and to reinstatement when they are able to return to work. Of particular note is that the SARS-related leave is *in addition to* an employee's current Emergency Leave entitlement under the *Employment Standards Act, 2000*.

Key elements of the *SARS Act* include:

- SARS Emergency Leave applies to employees who are or were unable to work for the following reasons:
 - An employee was or is under investigation, supervision or treatment for SARS;
 - An employee acts in accordance with a SARS-related order (made by an officer of health or court);
 - An employee is ordered into quarantine or isolation by a doctor, nurse or the public health authority (the employee must contact a public health official or doctor within two days and arrange to receive written confirmation that his or her continued absence from work is necessitated by SARS-related reasons);
 - An employee who was or is directed by their employer not to attend work; and

- An employee who was or is providing care to certain family members for SARS-related concerns (this includes absence for SARS-related disruptions such as child care responsibilities due to school closures);
- Weeks, including partial weeks, in which an employee takes SARS Emergency Leave, will be excluded for the purposes of the lay-off provisions of the *Employment Standards Act, 2000*;
- Unlike the Emergency Leave provisions contained in the *Employment Standards Act, 2000*, SARS Emergency Leave is not restricted to employers regularly employing 50 or more employees;
- Employers who penalize employees for taking SARS Emergency Leave may be penalized. Penalties can occur in the form of orders by an Employment Standards Officer for compensation for losses incurred as a result of the contravention of the *SARS Act*; reinstatement by an Employment Standards Officer; and in accordance with the enforcement provisions contained in Parts XX through XXVI of the *Employment Standards Act, 2000*; and
- The *SARS Act* has passed third reading in the legislature and will shortly receive Royal Assent. Once Royal Assent it is received, the *SARS Act* will be retroactive to March 26, 2003.

If you have any questions about the impact of this new legislation on your workplace or would like further information on other SARS related issues in the workplace, please do not hesitate to contact any of the lawyers at Crawford, Chondon & Andree LLP