

FTR Now

New Canada Emergency Response Benefit and Tax Relief Measures

Date: March 26, 2020

Bill C-13, [COVID-19 Emergency Response Act](#), received Royal Assent on March 25, 2020 after swift passage by Parliament and the Senate. This federal legislation implements the income support and other fiscal measures [announced by the federal government on March 18, 2020](#).

Among other things, the *COVID-19 Emergency Response Act*: (i) enacts legislation to implement the new Canada Emergency Response Benefit (CERB), (ii) amends the *Employment Insurance Act* (EI Act), and (iii) implements certain income tax measures. The summary of Bill C-13 below is limited to these three measures. Note that we are addressing the new *Canada Labour Code* COVID-19 leave in a [separate publication](#).

Canada Emergency Response Benefit

The federal government has combined two emergency benefit measures that it announced earlier to provide support to individuals affected by COVID-19 into one new benefit, the CERB.

What is it?

- The CERB is a form of income support implemented under the new *Canada Emergency Response Benefit Act* (CERB Act). This new benefit is not part of the Employment Insurance (EI) regime, and an eligible worker does not need to meet the EI insurable hours eligibility rules to qualify.
- It applies to any four-week period falling within the period beginning March 15, 2020 and ending October 3, 2020 that an individual meets the eligibility criteria described below.

Who is eligible?

- The CERB is available to employees and self-employed workers who:
 - have income of \$5,000 or more from employment, self-employment, or pregnancy or parental EI benefits in the 12 months preceding the application for the CERB;
 - are at least age 15 and a resident of Canada;
 - “cease working for reasons related to COVID-19” for at least 14 consecutive days within the four-week period in respect of which they apply for the payment; and
 - do not receive, in respect of those 14 days:
 - income from employment or self-employment;

- EI benefits; or
 - pregnancy or parental benefits under a provincial plan.
- Although not specified in the CERB Act, the federal government's [COVID-19 website](#) describes the following as workers who could be eligible for the CERB:
 - workers who are sick, quarantined, or taking care of someone who is sick with COVID-19
 - working parents who must stay home without pay to care for children who are sick or need additional care because of school and daycare closures
 - employees whose employment has not been terminated but who are not being paid and were asked by their employer not to work because of a shortage of work.
- It appears that workers are eligible for the CERB whether they would qualify for EI or not.
- The Regulations to be made under the CERB Act can specify types of employment income that will not affect the 14 day requirement. The government's website indicates that the CERB is intended for workers who do not have access to paid leave or other income support. It is not yet known whether the Regulations will permit an employer to top-up the benefit without affecting the employee's eligibility for the CERB.

How much is it?

- The amount of the CERB will be specified in the Regulations. According to the [government's news release](#), the CERB is \$2,000 per month for up to 16 weeks. It is taxable income.
- It is not clear whether the monthly \$2,000 payment will be pro-rated for a period without work between two and four weeks, but it does appear that it will not be payable if the worker is without work for less than 14 consecutive days in a four week period. It is expected that the Regulations under the CERB Act may clarify some of these questions once they are released.

How does it affect workers receiving (or who have applied for) EI benefits?

- According to the federal government's news release, workers who are already receiving EI regular and sickness benefits as of March 25, 2020 continue to receive those benefits and should not apply for the CERB.
- Workers who have already applied for EI benefits and whose application has not yet been processed do not need to reapply. It is not yet known whether they will be automatically switched to the CERB instead of EI if the EI application is still pending. The federal government has indicated that the CERB is intended to provide some relief to both individuals and the EI system, which has seen an unprecedented rise in applications.

When and how can workers apply?

- The application is expected to be available online in early April.

- Applicants are expected to receive their CERB payments within 10 days of application.
- The CERB will be paid every four weeks and will be available from March 15, 2020 until October 3, 2020. It appears that a worker may need to reapply every four weeks until reaching the 16-week limit, assuming they continue to be not working due to COVID-19.
- Application guidelines have not yet been released.

Employment Insurance Act

The *COVID-19 Emergency Response Act* amends the EI Act as follows:

- **Power to make orders:** The Minister of Employment and Social Development may, for the purpose of mitigating the economic effects of COVID-19, make interim orders to add new benefits, adapt certain provisions of the EI Act and Regulations, or provide that certain provisions of the EI Act or its Regulations do not apply. Such interim orders may have retroactive effect. This power is in effect until September 30, 2020.
- **Discontinuance of medical certificates:** All requirements under the EI Act to provide a medical certificate are deemed to be of no effect. Any benefit that would have been payable to a claimant had such a certificate been issued is payable if the Canada Employment Insurance Commission is satisfied that the claimant is entitled to the benefit. This provision is in effect until September 30, 2020. This is intended to make applying for EI sickness benefits less difficult.

No other provisions under the EI Act were changed. For example, the one-week waiting period to receive regular EI benefits continues to be in place.

Income Tax Act

The *COVID-19 Emergency Response Act* implements certain income tax measures by:

- Introducing a one-time additional payment under the GST/HST tax credit;
- Providing temporary additional amounts under the Canada Child Benefit;
- Reducing required minimal withdrawals from registered retirement income funds and variable benefits under defined contribution pension plans by 25% for 2020; and
- Providing eligible small employers a temporary wage subsidy for a period of three months.

Ontario EHT Exemption Increase

In addition to these federal tax relief measures, of particular interest to Ontario employers is that on March 25, 2020 Ontario also announced some tax relief measures to address the special circumstances created by COVID-19. The Employer Health Tax (EHT) exemption threshold has been increased to the first \$1 million dollars of payroll in 2020. The other qualifying factors for the



EHT exemption remain the same and the exemption is expected to return to its current level of \$490,000 on January 1, 2021.

Ontario businesses will also be provided a five-month relief period if they are unable to file or remit their provincial taxes on time as a result of the COVID-19 pandemic.

Going Forward

The federal legislation tabled yesterday leaves some questions about the CERB unanswered and additional details are expected in the coming days as Regulations under the CERB Act are released.

We are monitoring for further developments. In the meantime, please do not hesitate to contact a member of [Hicks Morley's Pension, Benefits and Executive Compensation Group](#) if you have any questions.