

CANADA EMERGENCY RESPONSE BENEFIT (CERB)

April 1, 2020

On March 25, 2020, the federal government passed and received royal assent for [*An Act respecting certain measures in response to COVID-19*](#) (introduced as *Bill C-13*), an \$82 billion aid package for a period of six months.

The legislation includes several measures that impact the workplace including the Canada Emergency Response Benefit (CERB), which is part of the **Canada Emergency Response Benefit Act** to authorize the making of income support payments to workers who suffer a loss of income for reasons related to the coronavirus disease 2019 (COVID-19).

The CERB is a taxable benefit that will provide \$2,000 a month for up to four months to workers who lose their income as a result of the COVID-19 pandemic. The CERB will cover Canadians who have lost their job, are sick, quarantined, or taking care of someone who is sick with COVID-19, as well as working parents who must stay home without pay to care for children who are sick or at home because of school and daycare closures. The CERB will also apply to wage earners, as well as contract workers and self-employed individuals who will not otherwise be eligible for Employment Insurance (EI).

Additionally, workers who are still employed but are not receiving income because of disruptions to their work situation due to COVID-19, will also qualify for the CERB. This will help businesses keep their employees on payroll as they navigate these difficult times, ensuring they can quickly resume operations as soon as possible.

The CERB will replace the previously announced Emergency Care Benefit and Emergency Support Benefit.

The portal for accessing the CERB will be available in early April.

EI eligible Canadians who have lost their job can continue to apply for EI with Service Canada, as can Canadians applying for other EI benefits. Canadians are not entitled to both CERB and EI benefits. ESDC will coordinate the benefits between the two.

Canadians should begin to receive CERB payments within 10 days of

application. The CERB will be paid every four weeks is available from March 15, 2020 until October 3, 2020. No worker is permitted to file an application after December 2, 2020.

Who Qualifies:

A worker under the Act means a person who is at least 15 years of age, who is resident in Canada and who, for 2019 or in the 12-month period preceding the day on which they make an application under section 5, has a total income of at least \$5,000 or, if another amount is fixed by regulation, of at least that amount from one of the following sources:

- a) Employment
- b) Self-employment
- c) Benefits paid to the person under any of subsections 22(1), 23(1), 152. (1) and 152. (1) of the **Employment Insurance Act**; and
- d) Allowances, money or other benefits paid to the person under a provincial plan because of pregnancy or in respect to the care by the person of one or more of their new-born children or one or more children placed with them for the purpose of adoption.

If employees have stopped working because of COVID-19, they can apply for the Canada Emergency Response Benefit regardless of their eligibility for Employment Insurance.

Starting April 6, 2020, there will be a single portal to assist with the application process. Until then, Canadians who are eligible for Employment Insurance and who have lost their job can continue to [apply for Employment Insurance](#).

If employees applied for EI regular or sickness benefits on March 15, 2020 or later, their claim will be automatically processed through the CERB.

For other EI benefits, including maternity, parental, caregiving, fishing and work sharing, employees should also continue to apply.

Click here for more information: <https://www.canada.ca/en/services/benefits/ei/cerb-application.html>

THE CANADA EMERGENCY WAGE SUBSIDY

April 1, 2020

To help businesses keep and return workers to their payroll through the challenges posed by the COVID-19 pandemic, the Prime Minister, Justin Trudeau, proposed the new Canada Emergency Wage Subsidy to provide a 75 per cent wage subsidy to eligible employers for up to 12 weeks, retroactive to March 15, 2020.

Eligible Employers

Eligible employers include individuals, taxable corporations, and partnerships consisting of eligible employers as well as non-profit organizations and registered charities.

Public bodies are not eligible for this subsidy. Public bodies include municipalities and local governments, Crown corporations, public universities, colleges, schools and hospitals.

This subsidy is available to eligible employers that see a drop of at least 30 per cent of their revenue (see *Eligible Periods*). In applying for the subsidy, employers would be required to attest to the decline in revenue.

Calculating Revenues

An employer's revenue for this purpose would be its revenue from its business carried on in Canada earned from arm's-length sources. Revenue would be calculated using the employer's normal accounting method, and would exclude revenues from extraordinary items and amounts on account of capital.

The government will continue to work with the non-profits and charities sector to ensure the definition of revenue is appropriate to their specific

circumstances.

Amount of Subsidy

The subsidy amount for a given employee on eligible remuneration paid between March 15 and June 6, 2020 would be the greater of:

- 75 per cent of the amount of remuneration paid, up to a maximum benefit of \$847 per week; and
- The amount of remuneration paid, up to a maximum benefit of \$847 per week or 75 per cent of the employee's pre-crisis weekly remuneration, whichever is less.

Further guidance with respect to how to define pre-crisis weekly remuneration for a given employee will be provided in the coming days.

In effect, employers may be eligible for a subsidy of up to 100 per cent of the first 75 per cent of pre-crisis wages or salaries of existing employees. These employers would be expected, where possible, to maintain existing employees' pre-crisis employment earnings.

Employers will also be eligible for a subsidy of up to 75 per cent of salaries and wages paid to new employees.

Eligible remuneration may include salary, wages, and other remuneration. These are amounts for which employers would generally be required to withhold or deduct amounts to remit to the Receiver General on account of the employee's income tax obligation. It does not include severance pay, or items such as stock option benefits or the personal use of a corporate vehicle.

A special rule will apply to employees who do not deal at arm's length with the employer. The subsidy amount for such employees will be limited to the eligible remuneration paid in any pay period between March 15 and June 6, 2020, up to a maximum benefit of \$847 per week or 75 per cent of the employee's pre-crisis weekly remuneration.

There is no overall limit on the subsidy amount that an eligible employer may claim.

Eligible Periods

Eligibility will generally be determined by the change in an eligible employer's monthly revenues, year-over-year, for the calendar month in which the period began. The amount of wage subsidy (provided under the [COVID-19 Economic Response Plan](#)) received by the employer in a given month will be ignored for the purpose of measuring year-over-year changes in monthly revenues.

For example, if revenues in March 2020 were down 50 per cent compared to March 2019, the employer would be allowed to claim the Canadian Emergency Wage Subsidy (as calculated above) on remuneration paid between March 15 and April 11, 2020.

The table below outlines each claiming period and the period in which it has a decline in revenue of 30 per cent or more.

Eligible Period		
	Claiming period	Reference period for eligibility
Period 1	March 15 – April 11	March 2020 over March 2019
Period 2	April 12 – May 9	April 2020 over April 2019
Period 3	May 10 – June 6	May 2020 over May 2019

For eligible employers established after February 2019, eligibility would be determined by comparing monthly revenues to a reasonable benchmark.

How to Apply

Eligible employers will be able to apply for the Canada Emergency Wage Subsidy through the Canada Revenue Agency's *My Business Account* portal as well as a web-based application.

Employers will have to keep records demonstrating their reduction in arm's-length revenues and remuneration paid to employees. More details from CRA

regarding the application process will be made available shortly.

Ensuring Compliance

In order to maintain the integrity of the program and to ensure that it helps Canadians keep their jobs, the employers will be required to repay amounts paid under the Canada Emergency Wage Subsidy if they do not meet the eligibility requirements and pay their employees accordingly.

Penalties may apply in cases of fraudulent claims. In addition, anti-abuse rules will be proposed to ensure that the subsidy is not inappropriately obtained and to ensure that employees are paid the amounts they are owed.

The government is considering the creation of new offences that will apply to individuals, employers or business administrators who provide false or misleading information to obtain access to this benefit or who misuse any funds obtained under the program. The penalties may include fines or even imprisonment.

Interaction with 10% Wage Subsidy

On March 18, 2020, the Prime Minister announced a temporary 10 per cent wage subsidy. For employers that are eligible for both the Canada Emergency Wage Subsidy and the 10 per cent wage subsidy for a period, any benefit from the 10 per cent wage subsidy for remuneration paid in a specific period will generally reduce the amount available to be claimed under the Canada Emergency Wage Subsidy in the same period.

Interaction with the Canadian Emergency Response Benefit

An employer will not be eligible to claim the Canada Emergency Wage Subsidy for remuneration paid to an employee in a week that falls within the 4-week period during which the employee is eligible for the Canadian Emergency Response Benefit.

Employers who are not eligible for the Canada Emergency Wage Subsidy will still be able to furlough employees who will receive up to \$2,000 a month.

Government Assistance

The usual treatment of tax credits and other benefits provided by the

government will apply. As a consequence, the wage subsidy received by an employer would be considered government assistance and be included in the employer's taxable income.

Assistance received under either wage subsidy would reduce the amount of remuneration expenses eligible for other federal tax credits calculated on the same remuneration.

The Canadian Payroll Association will work with the government on the registration and technical details and share them with members as soon as they are available.

COVID-19

CRA REQUIREMENTS TO PAY MUST CEASE

April 1, 2020

The CRA has changed the [wording of the CRA Requirements to Pay in](#) order to ensure that amounts are not deducted or remitted. The new wording is as follows:

“Due to the rapidly changing events related to COVID-19, please be advised that the CRA is currently not sending any Requirements to Pay (RTP) to employers.

The CRA requests that any RTPs that you may receive not be actioned at this time.

The CRA also requests that you withdraw any RTPs currently in place. No RTP withholdings and no RTP payments are required, until further notice.”

The CRA has also provided the following information to the Canadian Payroll Association:

- Any new RTP orders received from the week ending March 21 onwards (and until further notification) are NOT to be actioned (i.e., no employee deductions)
- All pre-existing orders should be suspended (i.e., employee deductions should stop)
- The CRA will advise the Association as to whether or not this will apply to Third Party Demands (for EI/PPP overpayments)

The Canadian Payroll Association will continue to advise its members on an ongoing basis as this new information becomes available.

[COVID-19](#)

UPDATE: COVID-19 RELATED LEAVE OF ABSENCE NOW LEGISLATED UNDER THE CANADA LABOUR CODE

April 1, 2020

On March 25, 2020, the federal government's *Bill C-13 [Act respecting certain measures in response to COVID-19 received](#)* royal assent. The bill included amendments to the Canada Labour Code in order to provide a leave related to COVID-19 of up to 16 weeks.

These provisions apply to federally regulated employers. Provincially regulated employers are not impacted by these legislative measures.

[COVID-19](#)

NEW LEGISLATED LEAVE FOR COVID-19

April 1, 2020

This leave provides employees with up to 16 weeks if they are unable to work because of COVID-19.

Change in length of leave

An employee must, as soon as possible, give written notice to the employer of any change in the length of the leave of absence.

Written declaration

The employer may require an employee to provide a written declaration in support of the reasons for the leave of absence taken under this Division and of any change in the length of that leave.

Vacation Interruption

An employee may interrupt a vacation granted to them in order to permit them to take a leave of absence.

Benefits to continue

The pension, health and disability benefits and the seniority of an employee who is absent from work due to a leave of absence accumulate during the entire period of the leave.

Contributions by employee

If contributions are required from an employee in order for the employee to be entitled to a benefit, the employee is responsible for and must, within a reasonable time, pay those contributions for the period of any leave of absence unless, at the commencement of the absence or within a reasonable time after, the employee notifies the employer of their intention to discontinue contributions during that period.

Employment opportunities

An employee is entitled, on written request, to be informed in writing of every employment, promotion or training opportunity that arises during the period when the employee is on a leave of absence for which the employee is qualified, and on receiving that request, the employer must provide the information to the employee.

Prohibition

An employer is prohibited from dismissing, suspending, laying off, demoting or disciplining employee because the employee intends to take or has taken a leave of absence or taking such an intention or absence into account in any decision to promote or train the employee.

Limit to employer's ability to request doctor's notes

The Canada Labour Code has been amended to limit an employer's ability to request doctors' notes for other leaves, such as Compassionate Care Leave, Leave for Critical Illness or Medical Leave during a public health emergency. This provision will be repealed on September 30, 2020.

The Canadian Payroll Association will notify its members should any of the above provisions change.