

The New Canada Emergency Response Benefit and COVID-19-Related Amendments to the Canada Labour Code

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Please note that since the following article was originally posted, the Government of Canada has further updated the eligibility requirements relating to the CERB program. Please refer to this Comment for additional information on these modified eligibility requirements.

On March 25, 2020, Bill C-13, the *COVID-19 Emergency Response Act* (the Act) received Royal Assent. This new legislation creates the Canada Emergency Response Benefit (CERB), a streamlined income support program aimed at assisting Canadians who have suffered financially as a result of the COVID-19 pandemic. The CERB combines and replaces the previously announced Emergency Care and Emergency Support Benefits.

The Act also amends the *Canada Labour Code* by creating a new job-protected leave of absence of up to 16 weeks for employees in federally-regulated workplaces who are unable or unavailable to work for reasons related to COVID-19.

CERB: Eligibility Requirements

The CERB will provide a taxable benefit of \$2,000 per month for up to 16 weeks to:

- workers who lose their job due to COVID-19;
- 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 that are sick or need additional care because of school and daycare closures;
- wage earners and self-employed individuals, including contract workers, who would not otherwise be eligible for Employment Insurance (EI); and
- workers who are still employed but are not being paid because of disruptions to their work situation due to COVID-19.

Any resident of Canada in the above-noted circumstances who is 15 years of age or older, is not receiving income from employment or self-employment, and, for 2019 or in the 12-month period preceding the day on which they make an application, has a total income of at least \$5,000 from employment or self-employment, will be eligible to apply for the CERB.

The CERB will be accessible through a secure web portal starting in early April, and those eligible can

expect payments within 10 days of the date of application. CERB payments will be issued every four weeks and will be available from March 15, 2020 to October 3, 2020.

Impact of CERB on Employment Insurance Eligibility

In its news release, the federal government has acknowledged that the EI system was not designed to process the unprecedented volume of applications it has received in recent weeks. The CERB is intended to address this significant backlog and make it easier for workers who have stopped working due to COVID-19 to receive income support benefits, irrespective of whether they would be eligible for EI.

Eligible workers may receive CERB payments or EI benefits, but not both at the same time. Workers who are already receiving EI regular or sickness benefits as of March 25, 2020 will continue to receive those benefits and should not apply for the CERB. If their EI benefits end before October 3, 2020, they could apply for the CERB at that time if they are still unable to return to work due to COVID-19.

Similarly, workers who have already applied for EI and whose applications have not yet been processed do not need to reapply for the CERB. Canadians who are eligible for EI regular and sickness benefits would still be able to access EI benefits if they remain unemployed or unable to work due to illness after the 16-week period covered by the CERB.

Canada Labour Code Amendments

In addition to creating the CERB, the Act amends the *Canada Labour Code* to provide a job-protected leave of absence of up to 16 weeks for employees in federally-regulated workplaces who are unable or unavailable to work for reasons related to COVID-19. Employees wishing to take this leave are required to provide written notice to their employer of the reasons for the leave and the anticipated duration of the leave. Employees are not required to provide a medical certificate in relation to this leave, but they may be asked to provide a written declaration in support of their reasons for taking this leave and of any change in the duration of the leave.

The *Canada Labour Code* has also been amended to provide for a quarantine leave under the existing medical leave regime. The requirement that an employee produce a medical certificate in support of their need for compassionate care, critical illness or medical leave has also been temporarily lifted until September 30, 2020.

The Cassels Employment & Labour Group is continuing to monitor legislative developments relating to COVID-19 that impact employers and their employees and will provide updates as they become available.

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