



## **COVID-19 UPDATE, April 16, 2020**

### *Introduction:*

This brief, weekly update is aimed at keeping employees and employers informed of COVID-19 related changes in the world of employment. To find more answers to common employment questions, you can:

- Visit the [Levitt LLP website COVID-19 page](#).
- Read [Howard Levitt's columns in the National Post](#).
- Listen to Howard Levitt and the other lawyers from Levitt LLP on [Newstalk 1010](#).
- To watch some of our lawyers' many media interviews on the subject of COVID-19, visit [this page](#).
- For a summary of key employment issues, such as whether your employer has a right to place you on a temporary lay-off and your right to a safe workplace, [contact us to](#) request the COVID-19 Bulletins circulated by Levitt LLP on April 1, 2020 and April 8, 2020.

**Important:** Every one's circumstances are different. The information provided in this bulletin and at the above resources is for general information purposes only and is not intended to be legal advice.

If you are interested in obtaining legal advice for your specific problem, you can contact us to book a **free consultation on COVID-19 related issues**. To set up a consultation, call us now at 416-594-3900 or complete [this form](#).

### **IN THIS UPDATE:**

1. Canada Emergency Response Benefit – program in effect and expanded eligibility
2. Canada Emergency Wage Subsidy – legislation passed
3. Temporary 10% Wage Subsidy
4. Relief for students
5. Refresher on job-protected leaves

## 1. Canada Emergency Response Benefit

The online CERB application portal opened on Monday, April 6, for the March 15 to April 11 period and applications for the next period – April 12 to May 9 – opened on Monday, April 13. Over 3.5 million Canadians have already applied. The application portal can be found [here](#).

On April 15, 2020, Prime Minister Justin Trudeau announced that CERB eligibility criteria are being expanded to include:

- People earning less than \$1,000/month due to reduced hours as a result of COVID-19;
- People whose EI has recently run out; and
- Seasonal workers whose expected employment has fallen through due to COVID-19.

Trudeau also announced that a wage boost is on the way for essential workers who earn less than \$2,500/month, including those working in long-term care facilities.

As a general refresher, the CERB program functions as follows:

If applying online, Canadians will have to sign into their CRA My Account.

If applying by phone, Canadians can call the toll-free line at 1-800-959-2019, and should have their Social Insurance Number and postal code ready to verify their identity.

Both the online portal and the phone system will be closed between 3 AM and 6 AM Eastern Time for maintenance.

Note: to prevent overloading of the system, the government has set up a schedule for when individuals can apply, based on their birth month.

<b>If born in:</b>	<b>Apply on:</b>
January, February, March	Mondays (Best day to apply – April 6)
April, May, June	Tuesdays (Best day to apply – April 7)
July, August, September	Wednesdays (Best day to apply – April 8)
October, November, December	Thursdays (Best days to apply – April 9)
Any month	Fridays, Saturdays, Sundays

Applicants who set up a direct deposit are told they can expect to receive their first payment within three to five days. Payments by mail are expected to be delivered within 10 days.

Individuals who are eligible for the CERB are those who:

- Reside in Canada and are at least 15 years old;
- Have stopped working because of COVID-19;

- Have had income of at least \$5,000 in 2019 or in the 12 months prior to the date of the application;
- Have been or expect to be without employment or self-employment income for at least 14 consecutive days in the initial four-week period. For subsequent benefit periods, who expect to have no employment income; and
- Have not voluntarily quit their jobs.

Beginning April 6, there is a single portal to process all applications from those who are out of work due to COVID-19. Applicants will be guided through the process to determine which stream (i.e. EI Regular or CERB) best suits their situation.

EI-eligible individuals who have lost their jobs for other reasons should continue to apply for EI Regular benefits, and other eligible individuals can continue to apply for maternal, parental, caregiving, fishing, and worksharing benefits through EI.

Some early CERB recipients have reported that they have received more than \$2,000 in CERB payments during the first week. This could be for multiple reasons:

1. If someone received two identical \$2,000 CERB payments, they likely applied twice – potentially because they applied for EI and then also applied for CERB.
  - These individuals should hold onto the extra payment and be prepared to pay it back.
  - Program administrators will contact these applicants to discuss next steps.
2. If someone received payments for more than the \$2,000 CERB amount, their benefit was likely calculated retroactively and they need not worry.

Those who applied for the CERB and later realized they were not eligible (perhaps due to returning to work earlier than expected) should pay the money back if possible. For those who received a cheque, they may mail it back to the CRA. For those who received a direct deposit or no longer have their cheque, they may make out a personal check to “Receiver General for Canada”; indicate it is for “Repayment of CERB”; and include their SIN or TTN.

Cheques can be mailed to:

Revenue Processing – Repayment of CERB  
Sudbury Tax Centre  
1050 Notre Dame Avenue  
Sudbury ON P3A 0C1

## 2. Canada Emergency Wage Subsidy

On April 11, 2020, Ottawa enacted legislation bringing the Canada Emergency Wage Subsidy (CEWS) into effect. The CEWS assists employers with subsidies covering up to 75% of employee wages to a maximum of \$847 a week per employee for up to 12 weeks, retroactive to March 15, 2020.

Eligible employers include individuals, corporations, partnerships, not-for-profits, and charities which have seen at least a 15% reduction in their revenues in March 2020 compared with January and February 2020, and a 30% reduction in revenues for April and May. The subsidy is available for both existing and new employees, provided the new employees deal with the employer at arm's length.

Public bodies are not eligible, and employers cannot claim the CEWS for employees who are eligible for the CERB during the same period (i.e. those with no work and no employment income for at least 14 days).

For the purpose of determining whether an employer meets the 15% and 30% eligibility thresholds, revenues are calculated using the employer's normal accounting method, which could be either the accrual method or cash method, but not both. Employers must use the same accounting method for the duration of the program. Revenues include revenue earned in Canada from arm's length sources, and exclude revenues from extraordinary items and amounts on account of capital. For future eligibility periods, any CEWS subsidy previously received will not count as revenue.

The amount of the subsidy is the greater of:

- 75% of the amount of eligible remuneration paid to a maximum of \$847/week; or
- The amount of eligible remuneration paid, to a maximum of \$847/week OR to a maximum of 75% of the employee's pre-crisis weekly remuneration, whichever is less.

"Eligible remuneration" can include salary, wages, commissions, fees for services, and other remuneration like taxable benefits.

There is no overall ceiling on the total subsidy amount an eligible employer can collect.

While employees must be receiving some form of payment from their employers to be eligible for the CEWS, there is no indication that they must be performing work. Employers are expected to make best efforts to top up employees' wages to pre-crisis levels. If an employer is also using a Work-Sharing program, EI benefits received through that program reduce the amount available from the CEWS.

The CEWS also introduces a 100% refund for certain employer-paid contributions, including those made to Employment Insurance, Canada Pension Plan, Quebec Pension Plan, and Quebec

Parental Insurance Plan. The refund will cover 100% of these amounts for eligible employees in each week they are eligible for the CEWS and are on paid leave (i.e. performing no work but receiving pay from the employer). This refund applies on top of the maximum \$847/week CEWS benefit, and employers can apply for the refund at the same time they apply for the CEWS.

Employers may also be eligible for the [previously announced 10% subsidy](#), which operates through a reduction in required wage-related remittances to the CRA. If an employer is eligible for the CEWS and the 10% wage subsidy for the same period, any benefit from the 10% subsidy reduces the amount available from the CEWS.

Further information about the CEWS can be found at this [website](#).

### **3. Temporary 10% Wage Subsidy**

The Temporary 10% Wage Subsidy is a 12-week program to allow eligible employers to reduce their required payroll deduction remittances on employee wages.

Eligible employers include individuals (excluding trusts), not-for-profits, charities, some partnerships, and some Canadian-controlled private corporations eligible for the small business deduction, that pay salary, wages, bonuses, or other remuneration to an eligible employee.

The maximum subsidy for each eligible employee is \$1,375, up to a maximum of \$25,000 total per employer.

Businesses that are closed and not paying salary, wages, bonuses, or other remuneration are not eligible for the subsidy.

More information on this subsidy can be found at this [website](#).

### **4. Relief for Students**

Many students are concerned that they are left out of the government support measures announced to date. Based on current information, the CERB will not be available for those who would typically seek employment during the summer months and may now be unable to find work due to the crisis. The same applies to recent graduates who may have difficulty securing employment in the coming months.

However, some support is available through measures relating to government student loans and the Canada Summer Jobs program.

## **Canada Student Loans**

The federal government has suspended repayment and interest on all Canada Student Loans and Canada Apprentice Loans effective March 30, 2020 to September 30, 2020.

During this period, no payments on student and apprentice loans are required, pre-authorized debits will be stopped, and no interest will accrue.

## **OSAP Loans**

The provincial government has suspended repayment and interest on OSAP loans effective March 30, 2020 to September 30, 2020.

During this period, no payments on student loans are required, and no interest will accrue.

## **Canada Summer Jobs program**

The Canada Summer Jobs program is a government program for students and young people that predates COVID-19. The program provides wage subsidies to employers from not-for-profits, public sector, and small (fewer than 50 employees) private sector organizations to allow them to hire youth between 15 and 30 for summer work.

Employers and students/youth apply for the program each year. Applications for the 2020 program closed on February 28. Funding is limited and there is usually not enough to allow all eligible applicants to receive the subsidy.

For those who have already applied, the federal government has introduced some important changes to the program as a result of COVID-19, including:

- All eligible organizations can now receive up to 100% of the minimum wage for each employee; and
- The last possible end date is extended to February 28, 2021 (previously it was August 28, 2020).

You can learn more about the Canada Summer Jobs program at this [website](#).

## **5. Job-protected Leaves**

In addition to pre-existing job-protected leaves, the federal and provincial governments have introduced new statutory protections for workers who require leaves of absence due to COVID-19.

### ***Canada Labour Code***

The *Canada Labour Code* applies to federally regulated employees, such as those working for airlines, banks, and telecommunications companies. Amendments to the *Code* introduced a new entitlement to up to 16 weeks of unpaid, job-protected leave for employees who are unable or unavailable to work due to COVID-19, including:

- Employees in isolation or quarantine;
- Employees who need to provide care to a family member as a result of COVID-19; or
- Employees who are otherwise unable to work for reasons related to COVID-19.

Employees must provide prompt written notice of the reason for and length of their leave and must promptly notify their employer in writing of any changes to the length of their leave.

These amendments are in effect as of March 25, 2020 and continue to October 1, 2020. Doctors' notes are not required in support of leaves until September 30, 2020. More information is available [here](#).

### ***Ontario Employment Standards Act, 2000***

The *Employment Standards Act, 2000* has been amended to provide job protection for workers who are unable to perform their job duties during the COVID-19 crisis and must take an unpaid leave of absence, including:

- Employees in isolation or quarantine; and
- Employees that need to be away from work to care for children or relatives.

Employees cannot be required to provide doctors' notes in support of their leave. These amendments are retroactive to January 25, 2020 and will remain in place until the crisis ends. More information is available [here](#).

***Co-authored by Levitt LLP Articling Students Michael VanderMeer and Sarah Helmer.***

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