



What's New in HR Law

Transitioning from CERB: Changes to EI and New Benefits Introduced

August 28, 2020

Bottom Line

The Federal Government has released the details of the next steps in its economic recovery plan, announcing an extension of the Canada Emergency Response Benefit ("CERB") program, a transition plan for Canadians who are receiving the CERB, amendments to the Employment Insurance ("EI") program, and three new benefits.

4-Week Extension of the CERB

The CERB has been further extended by an additional four weeks, with the benefit now available from March 15, 2020 to October 3, 2020. The CERB provides \$500 a week for a maximum of 28 weeks. Individuals may apply for the benefit no later than December 2, 2020 for retroactive payments between March 15, 2020 and October 3, 2020.

This update is for general discussion purposes and does not constitute legal advice or an opinion.

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Transition Plan for Individuals receiving the CERB

Starting on September 27, 2020, individuals who are receiving the CERB and continue to be out of work will be transitioned to a simplified EI program. It is worth noting that the CERB payments are made in advance of pay periods while EI is typically paid in arrears. Specifics regarding how to address this possible gap in payment have yet to be released by the Federal Government.

Simplified EI Program

Insurable Hours Credit

Normally, to access EI benefits an individual must have worked a certain number of insurable hours in the year prior to their application or since their last EI claim. The Federal Government is lowering the required number of insurable hours by granting EI claimants a one-time credit of 300 insurable hours for regular benefits and 480 insurable hours for special benefits. EI special benefits include sickness, maternity, parental, compassionate care, or family caregiver benefits. By providing this credit to EI claimants, individuals can qualify for EI regular or special benefits with a minimum of 120 hours of insurable work.

The insurable hours credit will be available retroactive to March 15, 2020 and will be available to new EI claimants for one year.

Standard Minimum Unemployment Rate for Calculating EI Benefits

The Federal Government has also set a standard minimum unemployment rate of 13.1% for the purposes of calculating access to EI benefits. This is, in part, the mechanism by which the Federal Government can standardize benefits across the country in order to provide a minimum entitlement of 26 weeks of regular EI benefits and use an individual's 14 "best weeks" of earnings in order to calculate their benefit rate. It also allows the EI program to set the insurable hours at the minimum of 420 hours which, when combined with the hours credit, allows individuals to qualify for EI benefits with only 120 hours of insurable work.

Minimum Benefits Rate

Individuals, with new EI claims as of September 27, 2020, will receive a minimum weekly benefit rate of \$400 per week or \$240 per week for extended parental benefits.

EI Premium Rate Freeze

The Federal Government is also freezing EI premium rates at the 2020 levels for the next two years. For employers who pay 1.4 times the employee rate, the rate will remain unchanged at \$2.21 per \$100 of insurable earnings.

Additions to the Alphabet Soup of Government Programs: Three New Recovery Benefits

The Federal Government intends to introduce legislation in September to support three new recovery benefits: (i) the Canada Recovery Benefit, (ii) the Canada Recovery Sickness Benefit, and (iii) the Canada Recovery Caregiving Benefit.

Canada Recovery Benefit

The Canada Recovery Benefit (“CRB”) would be effective beginning September 27, 2020 for one year and would provide a benefit amount of \$400 per week for up to 26 weeks to individuals who are not eligible for EI, mainly those who are self-employed and including those working in the gig economy. The minimum eligibility requirements are similar to CERB. An individual is not eligible for CRB if they have quit their job voluntarily.

Individuals may earn income while receiving this benefit up to a maximum annual net income of \$38,000, excluding any CRB payment. Individuals receiving CRB payments who make more than \$38,000 will need to repay \$0.50 of the benefit for each dollar of their annual net income above \$38,000 to a maximum amount of the benefit they received.

Canada Recovery Sickness Benefit

The Canada Recovery Sickness Benefit (“CRSB”) would provide \$500 per week, for up to two weeks, effective September 27, 2020 for one year, for individuals who are unable to work because they are sick or must self-isolate due to COVID-19. Subject to minimum eligibility requirements, this benefit would be available to individuals without any requirement to provide a medical certificate. Individuals cannot simultaneously collect paid sick leave benefits from their employer and the CRSB.

This new benefit is related to the Safe Restart Agreement between the provinces and the federal government. The agreement contained a provision to provide up to two weeks of paid sick leave in the context of COVID-19.

Canada Recovery Caregiving Benefit

The Canada Recovery Caregiver Benefit (“CRCB”), would be effective from September 27, 2020 for one year, and provide \$500 per week, for up to 26 weeks per household to eligible Canadians. Individuals may be eligible for this benefit if they are unable to work for at least 60% of their normally scheduled work because they must care for a child who is under 12 years of age, a family member with a disability, or a dependent because:

- their school, daycare, day program, or care facility is closed or operates under an alternative schedule for reasons related to the COVID-19 pandemic;
- they cannot attend their school, daycare, day program, or care facility under the advice of a medical professional due to being at high risk if they contract COVID-19; or
- the caregiver who usually provides care is not available for reasons related to the COVID-19 pandemic.

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Impact on Employers

Employers should be mindful of the interaction between the availability of these new benefits and an employee's entitlement to a statutory leave under the *Ontario Employment Standards Act, 2000*. A determination of whether an employee may be eligible for one of the new benefits is separate from whether the employee may be eligible for a statutory leave, such as the Infectious Disease Emergency Leave.

The three new recovery benefits, CRB, CRSB, and CRCB, are subject to legislation being introduced in Parliament and therefore may change or be amended prior to their effective dates.

Future Updates

Filion Wakely Thorup Angeletti LLP continues to closely monitor the developments surrounding the COVID-19 outbreak and will provide additional updates as new information becomes available.

Need more information?

For more information regarding workplace management amidst the COVID-19 outbreak, contact [Cassandra da Costa](#) at 519-435-6009, or your regular lawyer at the firm.



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