

FEDERAL GOVERNMENT BROADENS ACCESS TO THE CANADA EMERGENCY RESPONSE BENEFIT AND PROPOSES WAGE SUPPORT FOR ESSENTIAL WORKERS

Posted on April 17, 2020

Categories: [Insights](#), [Publications](#)

On April 15, 2020, Prime Minister Trudeau announced that the federal government would be broadening the Canada Emergency Response Benefit (“CERB”) to make the benefit available to a greater number of Canadians affected by COVID-19. The government also announced that it would work with the provinces and territories to provide a “top-up” to essential workers.

CERB Enhancement

The CERB, for which eligible employed or self-employed workers can now apply, was initially intended to provide workers that had ceased working for 14 consecutive days due to COVID-19 with \$500 per week for a maximum of 16 weeks (broken into four 4-week periods). The government began accepting CERB applications on April 6, 2020.

Generally, to be eligible for the CERB, the implementing federal legislation, titled the *Canada Emergency Response Benefit Act*, presently requires workers to be without income from employment or self-employment and without benefits under the *Employment Insurance Act*, for a 14-day period. In addition, the worker should be not receiving maternity or paternity leave benefits under a provincial plan. To qualify, a worker must have earned from, among other things, employment and self-employment at least \$5,000 in pre-tax income in 2019 or in the 12-month period preceding the date of the application for CERB. (To harmonize claims for employment insurance (“EI”) benefits with the CERB, the *Employment Insurance Act* has been amended by way of an interim order, such that claims eligible for EI regular and sickness benefits after March 15, 2020 are effectively being processed through the CERB.)

However, in response to criticism regarding the CERB’s scope, including the concern that the obligation to be without income for 14 days acted as a disincentive for employers to find some work for their employees, the federal government has now announced a plan to expand CERB eligibility to the following groups of workers:

- Those earning up to \$1,000 per month;

- Seasonal workers who are without a job due to COVID-19 but have exhausted their EI benefits entitlement; and
- Individuals who have exhausted their EI eligibility benefits entitlement and cannot find work due to COVID-19.

Workers earnings in excess of \$1,000 per month will remain ineligible for the CERB. However, the government stated that its goal is to permit part-time workers in particular to “pick up some shifts” without being disqualified from receiving the CERB. Applications for the CERB will remain open, barring further changes, until October 3, 2020.

Importantly, it appears that the \$1,000 earning threshold will apply both to those who have already qualified for the CERB under the existing legislation (i.e. have had 14 days without earnings) and workers earning less than \$1,000 per month who have yet to apply for the CERB. Workers who have already applied for the CERB are likely to be assessed on the new \$1,000 threshold in respect of their next eligibility period.

Additional Pay for “Essential” Workers

In addition to broadening the CERB, the federal government announced that it would work with provinces and territories to establish a cost-sharing program to temporarily “top up” the wages of workers deemed “essential” by their governments and who make less than \$2,500 per month.

The federal government did not provide further guidance on this measure, including on which workers would qualify for the top-up. The categorization of “essential” workers will most likely be derived from provinces’ own categorization, though the federal government may not define “essential” as broadly as some provinces. It is likely that the initiative’s purpose is to support businesses whose essential workers may have been reticent to continue working instead of taking leave and claiming the CERB.

McMillan will continue to keep businesses and employers updated as we learn more about this latest initiative.

by Kyle Lambert and Ehsan Wahidie

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

© McMillan LLP 2020